

VINDICATION

Of those who take the

Oath of Allegiance,

To His Present MAJESTIE from
Perjurie, Injustice, and Dis-
loyaltie, Charged upon them
by Such as are against it.

Wherein is evidently shewed

That the COMMON GOOD of
a Nation is what is *Primarily*
and *Principally* Respected in
an Oath, and therefore when
the Oath is inconsistent with
that, the Persons who have
taken it, are absolved from it.

In Proving of which the Case of MAUD
and King STEPHEN is particularly
Consider'd.

In a Letter to a Non-Juror.

By Thomas Hearne.

Conscientia mille Testes.

Printed in the Year 1731.

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VINDICATION

Of those who take the

Oath of Allegiance

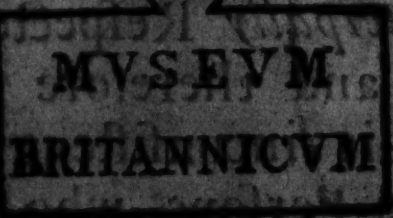
To His Present Majesty from
Persons, in whose
Loyalty, Charged upon them
by such as are against it.

Wherein is evidently shew'd

That the COMMON GOOD of

a Nation is what is

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the Oath, and the

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In proving of which the

and King STUART is

Consider'd.

In a Letter to a Friend

Confessing his

Printed in the Year 1704.

TO THE
R E A D E R.

IT has been a very just Observation made by some Writers, that those Persons, who have been most industrious in handing down to Posterity the Memorials of other Men, have generally had the Misfortune to be neglected Themselves. Unwilling that so hard a Fate should befall a Man who so little deserves it, I was glad to embrace any Opportunity rather than trust a Thing of such Consequence to *Hereafter*; and I have this Satisfaction (how uncommon soever it may be thought to give an Account of a Man in his Life Time) that I have preserved some Memorials of an indefatigable
A Gen.

Gentleman now living, which an able Pen may improve greatly to his Honour when dead.

With this View then the following Epistle (which escaped perishing with another on the same Subject) now makes its publick Appearance; and without an Apology will prove, I hope, a standing Monument of it's Author's early Talent at *Reasoning* as well a Proof of his Proficiency in *History* when considered as pen'd at the Age of twenty two.

It may be necessary to premise perhaps that the (a) Gentleman, for whose Good I suppose it was intended, and from (b) whom it came (with many other MSS) expressly by Will to the *Bodleian Library*, was an eminent Non-juror: One! who had been always a par-

(a) Mr. Cherry of Shottesbroke, Berks.

(b) See the Vellum Reg. of Benefactors in the Bodl. Library.

particular Friend to our Author, having at his own Expence (c) according to his grateful Acknowledgment) educated him at School and afterwards at the University. This was the Gentleman to whom the following Letter was sent, probably to engage him in a Compliance with the Oath of Allegiance to King *William*, notwithstanding his former Oath to King *James*. And I think it no common Instance of an early Gratitude to endeavour to rectify what he apprehended to be an Error in That Friend's Manner of thinking, who had contributed so much to qualify him for the doing it.

That He therefore may never be forgotten who has raked the Repositories of Antiquity and been indefatigable in fetching Learning from Places where not many

(c) *Leland. Itin.* Vol. 1. Pref. p. 15. *Leland Collect.* Vol. 1. Pref. p. 39.

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would have sought after it, a few Memorials of his Life and some Observations on his Writings may be more for His Credit, and less troublesome to the Reader than a tedious Preface to so little a Work.

The first Discovery I can make of Mr. *Hearne* is from the Parish Register of *Abbots* or *White-Waltham*; a Village about Six Miles distant from *Windsor*. Here it stands upon Record that he was baptized by the Name of *Thomas* Son of *George Hearne* and *Editb* his Wife on the Eleventh of *June* 1678. His Father I have been informed was a considerable Antiquary of the lower Class; and was *Sacristan* of that Parochial Church to the Day of his Death. So that Mr. *Hearne* in all Probability receiv'd his great Propensity to the Study of Antiquity as it were *ex Traduce*.

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To the READER. V

I think it is agreed on all Hands that his early Inclination to Letters first discovered itself amongst the *Tumuli* of his own Parish Churchyard; over which he was observed to be continually plodding almost as soon as he was Master of the English Alphabet. To this soon after adding a little Writing he grew impatient after Antiquity: resolved never to be unprepared for collecting Materials that might be serviceable hereafter, and accordingly stuffed his Diary (which was his constant Companion) with every Occurrence worthy his Notice. This he prudently foresaw would turn to a good Account in his more advanced Years; Vacancies in his future Labours might be supply'd with a Story from his Journal; and tho' it might not be very methodical, or perhaps not at all to his Purpose in Hand, Yet the Design

sign of preserving it might sufficiently justify the Publication of it.

This is the advantageous Method he has pursued all his Life Time: He has copy'd *Monuments* and *Inscriptions*; *Original Letters* and *venerable Ballads of Antiquity*; Stories of honest *John Ross* and *Peter Langtoft*; *Robert of Brune* and *St. Thomas Cantilupe*: Men! who had not Mr. *Hearne* lived, might have laid for ever buried in an ignoble Obscurity. The Preservation of these Things may be ascribed to his *Collectanea*, which are now swelled to a prodigious Size.

It is difficult indeed to determine to what particular Number these MSS Volumes are now grown, because they are kept with as strict and sacred a Care from the Eyes of Mankind as the

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the ^(d) Oracles of the *Sibylls* deposited in the Capitol. The highest Number I have yet seen quoted by himself is cxxiii. in his Preface to the ^(e) Annals of *John of Trokelowe*. So that notwithstanding there can be no certain Calculation made of an exact Number, Yet there is some room for a Conjecture that they are not fewer than five Hundred.

Several Passages there are in his ^(f) xcv Volume that enough convince us of his not being then arrived at Years of Discretion, notwithstanding he had fill'd so many of them: If therefore his Industry was as great in his advanced Years as in his Youth (which I believe all will allow

(d) See Dr. *Prideaux's* Account of those choice *Leaves* in the 485 page of Vol. 2. of his *Connexion*: where we find that none but the Keepers of them were ever Suffered to peruse them, and they only upon particular Exigencies.

(e) P. 29. (f) *Rob. de Glouc.* Vol. 2. p. 638.
when

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when they consider the uninterrupted State of Health he all along enjoy'd) I think I may be allowed not to have exceeded the Number, but rather to have fallen short of it. This however I only took Notice of to shew what an *inestimable* Loss the World must sustain, should this *prodigious* Treasure perish with the *Collector* of it.

This Digression I hope the Reader will pardon; and so without dwelling on the first Eight or ten Years of his Life, I shall follow him to the School, where I am told he laid the Foundation of his future Greatness.

It was happy for Him as well as the *World* that he fell into the Hands of a good (s) Master at *Bray* School: It being a melan-

(g) Mr. *Gibson*, Author of the excellent *Grammatical Exceptions against the late Alterations made in the common Accidence and Grammar.*

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cholly Thing to consider how many great Geniuss have either been cramp'd or utterly spoil'd thro' the Ignorance or Indolence of trifling Pedagogues. Here he soon mastered the Rudiments of Learning, and by a gradual but speedy Progress became acquainted with the *Roman* and *Greek* Historians.

Thus encouraged by the Pregnancy of his *Parts*, his assiduous Industry and Proficiency in School Learning, his liberal Friend thought them sufficient Motives to the Continuance of his Bounty, and sent him accordingly in the Year MDC xcv (with a considerable Addition) to the University of *Oxford*. Fortune here again (if I am rightly informed) seem'd particularly fond of him: The Vicar ^(h) of the Parish where his

(h) *White Kennett*, M. A. afterwards Bp. of *Peterborough*.

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Benefactor lived was at that Time a considerable Tutor in *Edmund Hall*, and in the Study of Antiquity most eminently remarkable. Thro' this Gentleman's Means he was admitted into this Place, and used more like a Son than barely a Pupil by him.

A few Years being spent in Academical Learning, by the Help of which he had improved his Propensity to Antiquity; He gave the World a Specimen of his future Designs. In the Year MDCCII. (but VII Years from his Matriculation) he publish'd a copious Index of the principal Passages in Sir Roger L'Estrange's Translation of *Josephus*. Which seems to have met with so good a Reception, that the same was reprinted not long after in an Octavo Edition. In MDCCIII. he obliged the World with (or at least occasion'd the Publication of) the *Reliquiæ*
Bod-

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Bodleianæ or some genuine Remains of Sir *Thomas Bodley*; adding the same Year to his other Labour *Pliny's Epistles* and *Panegyrick* with various Lections and Annotations; not to mention his Edition of *Eutropius*, with many other Things published all in this Year. In MDCCIV and v. came out that laborious Work call'd *Ductor Historicus*, 2 Vol. being a short System of Universal History, and an Introduction to the Study of it.

It would be almost endless to expatiate particularly on his Labours, or to give an Account of the Product of every Year; for which Reason I must refer the Reader to his own printed Catalogue of them, publish'd at the End of every Book since they became numerous.

During this Period however it is observable that the following

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Epistle

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Epistle was written, which loudly speaks in the Behalf of Mr. *Hearne's* Industry, and shews the early Application he had made to Books. The many just Quotations in it from sacred History as well as Prophane, from Acts of Parliament and Lawyers of the greatest Name, I flatter my self will excuse my writing a Panegyrick, and it's Author's Name recommend it enough to the Perusal of Mankind.

In MDCCIII. on the 3^d of *July* he took the Degree of Master of Arts, and had no sooner completed it, but the Eyes of the whole University were upon him: His Industry was almost become a Proverb, and (notwithstanding a little Surliness of Temper, which it is thought he brought into the World with him, and which probably increased with his severe Stu-

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Studies) he met with Friendship
in a great many, and much Re-
spect from all Men.

I should have mention'd in-
deed before this, the Encourage-
ment he had from the (^k) Head
Librarian, who (acquainted with
his Diligence) made him Under-
keeper of the *Bodleian* Library.
There he had Room enough for
his Inquisitive Genius to range
in; of which he made so good a
Use that the Product of every
Year afterwards may justly be a-
scribed to the Acquisitions he had
made in this Treasure of Learn-
ing.

After some Years spent in this
Way, of printing *Indexes*, *Itine-
raries* and *Collectanea*, his Labour
met with an additional Reward;
being on 19th of Jan. 1714---15.
elected *Archetypographus* of the
University and superiour *Beadle*

(k) Dr. Hudson Principal of St. Mary-Hall.

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of Civil Law. (1) This we find him acknowledging with Pleasure and Humility to be an Honour, which he took the first Opportunity of mentioning to the World, on purpose that his Gratitude might be made known to Posterity. And notwithstanding he was conscious to himself that the University Favours were conferred upon One who every way undeserved them, in respect of Learning, and other requisite Qualifications, yet still he had very good Reason for accepting of them upon this Account amongst others, as they seasonably assisted and relieved one of their Members that had for many Years led an obscure and retired Life, and was at that Time reduced to a necessitous Condition, thro' the great Expence he had been at in carrying on many publick Designs.

(1) *Leland. Collect.* Vol. i. p. 56.

In

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In this happy Posture of Affairs one would have imagined he might have been easy and satisfied: But neither Friendship nor Preferment could put a Stop to his Enquiry after *Truth*. Soon after this Promotion he acquired better Reasons (to *Himself* at least) for Non-Compliance with the Oaths that were necessary for keeping it, than he had before for the *Acceptance* of it; and accordingly resigns that advantageous Post, which the University had so lately conferred on him, as inconsistent with his *Conscience*, or at least, his Manner of *Thinking*.

Ever since he has steadily adhered to the Principles of a Non-juror; has spent his Time in annually obliging the World with something relating to the History of *England*, or with some other Affairs as they accidentally have
fell

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fell in his Way, both for the Benefit and Pleasure of Mankind. Here I think I may leave him still labouring at the Oar, deserving the Favour and Compliments of the Learned upon his yearly Revival of something (as it were) lost to every one but Himself. —^(m) *Singulis fere Annis Cl. Hearnius aliquid e MSS. eruere quod ad Historiam Anglicanam spectat, idque Præfationibus ac Appendicibus prolixis sæpe longe aliena complexis sive ornare sive onerare.* —⁽ⁿ⁾ *Hearnius doctus Antiquarius & Industriæ summæ. Hic Talpa eruditus egregia e Tenebris eruit; multum scalpsit, corrasit, & occultus ipse Literaturæ Cuniculos, Naso satis acuto, in Lucem edidit.* — Hearnium alterum verbis mutilatis totum incumbentem, fortiter, obstinate, contractis

(m) *Acta Eruditorum Anno. 1729. p. 182.*

(n) *Ed. Young. Orat. Codrington. p. 26.*

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Superciliis infixum, & Temporibus suis hoc e Saxo Ingenii sui Vel Duritie potius, Lumen elidentem videor videre. These Passages how much soever they may look like Ridicule to Men who deal only in *Polite Learning*, are still undoubted Confirmations of Mr. *Hearne's* Industry, and will ever be thought so by Persons of deeper Penetration.

Amongst many Qualities remarkable in him, his strict and unshaken *Integrity* is none of the least. No Regard for any one's Merit could ever prevail with him to connive at their Errors: He chose rather to break off the strictest Friendship, than to be led aside by it in his Search after Truth; Nay his very *Gratitude* when it interfered with his *Integrity* was at once renounced as no longer binding. (°) *Operæ Pre-*

(°) *Leland. Collect. Vol. 1. p. 37.*

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tium est (says he) *Lectorem monere me nulla alia de Causa à Richardsono dissentire, nisi quod Veritatem aliis quibuscunque Amicitii anteferendam esse censeam.* And in another Place, ^(P) *Eo collineat Operum nostrorum Scopus, ut Veritatem pro virili asseramus, cui litavimus.*

There is one Thing indeed relating to *University College* (to which Society he ^(q) declares himself indebted) which it would really be a Fault in me not to take Notice of, because I am positive his *Veritatis Amor* can never be reconciled with it.

During the late unhappy Contest in that House, occasion'd by the Death of Dr. Charlett, Mr. Hearne published *Peter Langtoft's Chronicle*; at the End of the 2^d Vol. of which he adds a Glossary upon English Words.

(p) *Alured. Beverl. p.43.* (q) *Leland. itin. p.7,8.*

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Upon the Word *Writ* he has it thus: We commonly understand by *Writ* (the same with the Latin *Breve*) a written Order or Precept from the King or Court of Judicature, by which any thing is commanded to be done, relating to a Suit or Action.

Had he left off here he had done very well: (r) *Sed ad Agendum Nati sumus* are his own Words; upon which Principle I suppose he proceeded in this Place. Of this kind (he tells us) is that remarkable one relating to *University College of King Richard the Second*, with his Seal annexed, which he just saw and hastily run over.

Whether he ever saw this Instrument I shall not scruple at present, but whether there is any Seal to it, or has been within the Compass of Mr. *Hearne's* Years,

(r) *Rob. de Avesbury Præf. p. 1.*

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I leave to the Enquiries of the
Fellows of that Society.

The same he tells us was done
afterwards expressly by K. *Henry*
VI. in a Writing quoted from the
Muniments of the same College
by (f) Mr. *Twyne*. The Thing
will appear best to the Reader if I
produce the Passage printed by
Mr. *Twyne* and the Translation
of it by Mr. *Hearne*.

Nam cum Temporibus Henrici
Sexti inter Gulielmum Abbatem
de Osney, & Richardum Witton
illius Collegii Magistrum esset Con-
troversia &c. And then follows
the Instrument itself, which is
only a common Form in the Case
of a Law-Suit drawn by some At-
torney, which Mr. *Hearne*, with-
out the least Authority whatever,
makes to be one of these *Writs*
or Precepts from the King or
Court of Judicature relating to

(f) *B. Twyne Apolog. Antiq. Acad. Oxon.* p. 198.
the

the depending Suit between the
Abbot of Osney and Richard Whit-
ten then Master of the College.

How he came to translate *Temporibus Hen. vi^{ti}* by the Order of
Henry the vi looks more like *De-
sign* than *Blunder*; tho' I would
not suggest that he had any In-
tent of giving a Turn to a Cause
then depending in some Measure
upon such Instruments as he
would have made this.

The Annals of this College late-
ly publish'd by Mr. *Smith* I find
have given our Antiquary some
Distaste; but upon what Bottom
this Anger is rais'd, a little En-
quiry (if the Reader will permit
me) will soon discover.

In his Preface to (*) *Sprott* I
found this Gentleman a very
great Favourite of Mr. *Hearnè's*;
whose Character there given is
Vir per-eruditus & benevolus:

(*) *Sprott. Pref. p. 24.*—P. 17.

But

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But I am afraid Men's Temper grow sour and morose as they advance in Years. In a Preface to the Life of *Richard II.* we have another Account of Mr. Smith viz. *Scriptor ille ferreus atque mendax Guilielmus Faber de Joh. Rosso tam maligne passim locutus est.*—*Hæc in Gratiam Guilielmi Fabri Ecclesiæ Anglicanæ (quod vix credas) Sacerdotis, qui multum Temporis in isto uno [scilicet Antiquitatis] Studio consumpsit nuperque (jam pene Octogenarius) Librum prolixum, Annales Collegii Universitatis, Verbo haud satis apto, appellatum, Lingua vernacula conscripsit (ne dicam conscribillavit) & in publicum protrusit.*

I cannot but observe here, that Mr. Smith's Age is made a part of his bad Character; when old Age by some more sacred Writers than Mr. *Hearne*, is thought honourable

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per se rather than scandalous.
ad Many other Sentences there are
e to this Preface of his, which a-
av found with the same sort of Lan-
th guage of this Rev^d old Gentle-
qu man, which the *Veritatis Amor*
Job can never justify.

ut (u) One Passage there is respect-
lim ing *Sprott* (whose Authority I
uo own I have some Reason to scru-
pul le) which proves, that Mr.
sci *Hearne* has either not kept up to
osit his avow'd Regard for *Truth*, or
ius he has unhappily blundered in a
Col point of Chronology, tho' he a-
quc cuses Mr. *Smith* for it in the very
gua same Case. His Words are these:
can *Sprottus floruit An. Dom. 1274.*
um *longe nimirum citius quam exop-*
tat *Guil. Faber, qui à $\alpha\chi\epsilon\gamma\eta\sigma\iota\omega\upsilon\alpha\iota$ im-*
ha *memor, audacter falsoque retulit,*
t o *Ranulphum Higdenum primum*
ge *annium fuisse qui de Scholis Alu-*
nar *redianis aliquid tradidit, &c.*

ur (u) *Life of Rich. 2. Pref. p. 19.*

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xxiv *To the READER.*

It is observable here in the first place, that *Sprott* lived (according to Mr. *Hearne's* own Confession) in 1274, which was in the Reign of *Edward* the First, that he studied *in ea parte Aedificii Christi quam vulgo vocant Quadrangulum Cantuariense*, (and that he wrote of *Canterbury College* and left a Book behind him concerning it, is evident from the above-cited Preface to *Sprott's Chronicle*.

This is a very surprising *Canterbury* Tale indeed; and what would make *Sprott* (provided it could be prov'd) more Famous than the *Samian* Philosopher, who by the Help of Transmigration passed thro' 2 or 3 Successive Stages of Generation, but never under the same Name.

Sprott, who lived in 1274, in the Reign of *Edward* the First, studied in *Canterbury College*, which

which was not built till 1363, and therefore, agreeable to this Account, must either have lived about 89 Years before he was born, or at least written of a Place as many Years before it was built.

This Mistake I would have accounted for in my Author's Behalf, had it been in my Power; but as it is not, I must leave it to himself, who is better qualified to reconcile Difficulties of this Nature.

Another Slip of this kind appears in the 302 page of his Collection of *Curious Discourses*. *Academia* (says he) *scripsit* Guilielmo Wykham *Episcopo* Winton. *ut illis accommodaret Machinas, quarum Ope Scholam Theologicam Voltis & Fornicibus exornarent.* It is very well known that the *Divinity School* (for which this Loan was desired) was built in the Year 1476, by *Tho. Kempe*
D Bishop

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Bishop of London. This Mr. Hearne allows in the Page preceding the Place before cited. (w) William of Wikkham Bp. of Winton died the 27th of Sept. 1404. so that according to this Assertion the University sent to him *ut illis accommodaret Machinas* &c. 60 Years after his Death. (x) Rymer in his *Fœdera* tells us, that Hen. Beaufort Bp. of Winton died the 3^d Id. of April 1447. and was succeeded by William Waynflete, who lived in Possession of the same till 1486. So that if for Wikkham we read Waynflete, as the Person petition'd by the University, we shall come within the Time of building the Divinity School, and set Mr. Hearne right in his Chronology. This I believe was an Alteration of no Design, but only a simple, thoughtless Blunder. Mistakes of this sort I shall

(w) *Le Neve* p. 286. (x) *Rymer Fœd.* Vol. 8 p. 392.

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conclude with an Assertion of his relating to *University Coll.* where he makes *William* of *Durham* to have studied in the *Great Hall*, which was not bought for the Use of *William* of *Durham*'s Scholars till 124 Years after his Death.

As for the Censure passed upon Mr. *Smith* in the Passage above-cited (which really is too severe without better Grounds for it) I may venture to say 'tis Unjustifiable. For supposing that *Sprott*'s Book was written before *Higden*'s, Yet still Mr. *Smith* (who had never seen or heard of it till he had finished his *Annals*) might undoubtedly say, and consistent with Truth too, that *Ralph Higden* was the first he ever had met with quoted as a Friend to the weak Cause of K. *Alfred*'s Halls, and who seem'd first to have introduced this Novelty into the World.

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Mr. *Hearne* therefore in the former Case seems to deserve the Sentence of being *ἀναχρονισμὸν* *immemor*; and in the latter to be very Ungenteel, to make no worse of it. (y) *Utinam igitur Auctor Noster* (to use almost his own Words) *Errores expungat, Librumque Retractationum ipse confestim edat, Crimenque nefandum, quod Clerico h^{ic} digno intulit, pro virili eluat.* *Hoc enim non extorsit Veritatis Amor.*

Whilst I am thus impartially considering our Antiquary's Character, by setting him right in his Mistakes, as well as commending his Vertues, one thing occurs which I should have been glad never to have had the Opportunity of correcting. About twenty Years before the Publication of the Life of *Richard II^d*. (which was wrote by one of the Monks

(y) *Leland. Collect. Vol. 1. p. 27.*

(z) *Le*

To the READER. XXIX

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Evesham, our Author, in his
) Preface to the VII Volume of
Leland's Itinerary, expresses a
 hearty Concern for the just Rights
 of the Crown, in Opposition to
 those 'who, in order to advance
 and maintain *Republican Princi-*
 ples, strain their *Inventions* to
 give a wrong *Turn* to, and per-
 vert the *true Meaning* of our best
 Historians; and *studiously asperse*,
 blacken and defame, the Memory
 of K. Charles the II^d. (as others
 with less Modesty have done
 that of K. Charles the Ist.) What
 he has said upon these Points he
 hopes no *Ingenuous* or *Impartial*
 Person will think *Uncharitable* or
 Unbecoming.

These are sounding Words,
 and express a great deal of Loyalty
 to the Memory of those Princes.
 But such fickle Things are our
 Memories, that sometimes they

(2) *Leland. Itin. Pref. p. 12.*

seem

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seem to take Pleasure in exposing us. Hence doubtless it was that Mr. *Hearne* lately run counter to his own above-cited Declarations. It must be Forgetfulness (I hope so at least) that will suffer a Man to draw his own Character in an infamous Light; and whether he has not done it to the Life, let the *Reader* judge when he has heard the Accusation, and is referred to the Place where he may soon inform himself.

At the latter ^(a) End of the Life of *Richard* the III^d. there is a *Letter* printed (and Mr. *Hearne* says an *Original* one) of *Charles* the First when Prince of *Wales*. It is directed to the *Duke* of *Buckingham*, and interpreted by the *Publisher* of it, as carrying on an Affair of Gallantry. Be the Letter what it will, *Original* or not, He ought to have given a

(a) Pag. 405.

To the READER. XXXI

better Reason for making it publick. He was apprehensive (he tells us) that if such a *Letter* should be stifled, some Persons might interpret it an Instance of Partiality, and be apt to make base Reflections upon it. Let us examine this kind of Reasoning a little. The stifling this *Letter* would have been thought an *Instance of Partiality*; The Reason of which must be this; Because Mr. *Hearne* is necessarily obliged to publish every Thing he meets with. And then, he says, that some Persons would be apt to make base Reflections on it: On the *Letter* I suppose, which if stifled, they might never see or hear of: Or if he means those Gentlemen who communicated it to him, he has again forgot his *Veritatis Amor*, because they never intended it should be printed. That it may escape therefore all

Cen-

xxxii *To the READER.*

Censure he publishes it in a heap of *Appendixes* and *Curæ secundæ*, and makes it a hundred Times more easy for base Reflections to be cast on it than it was before.

This is the *Reason* given for publishing this *Letter*. In the next Book printed by him (which was *Trokelowe's Annals of Edward the II^d*) we have an Apology in his Preface for the very same Thing. The *Letter* became the Subject of almost every one's Discourse, and a Reflection cast upon a Prince, remarkable for his *uncommon Chastity*, could not but be taken Notice of by many of his Friends. Whether it had liked to have discontinued any of his Subscriptions, or whether he had more maturely considered the Matter I cannot say: This however is plain, that his *Apology* is designed to give a softer Turn, than was hinted in his

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To the READER. XXXiii

Explanation of the Letter; and that now he had rather have it thought, that the *Prince* was unwarily *mis-led*, than *inclined* to this Gallantry.

It had been more *prudent* (and I may add less *officious*) in Mr. *Hearne*, whilst he was thus endeavouring to clear himself, to have first got leave for the Printing this Letter from the *Gentleman* who shewed it him, and who, I am informed since, so highly regrets it, that he has broke off a Friendship with him, that had been kept very strict for many Years. I must subjoin by the way, that it is certainly a greater Instance of *Partiality* to publish a *Letter* as an *Original*, which the Editor could not at that Time, neither can he now prove to be so.

The *Apology* will appear, upon a little Consideration, not at all inferiour to his *Reason* for print-

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xxxiv *To the READER.*

ing it; especially if we observe, that tho' he did not know what the *Intrigue* was, yet he happily conjectured, by making the *Prince* to be enticed like *Joseph* by the Importunity of a lewd Mistress; tho' I don't remember that *Joseph* ever wrote to a third Person about His Affair. Nay, it may be remarked further, that Mr. *Hearne* makes the ^(b) Wife of *Pharaoh* the importunate Woman, when the Scriptures assure us, it was *Potiphar's* Spouse that was so deeply smitten with the Comeliness of the *Hebrew*. But a Man may possibly forget his *Bible*, who is so very much taken up with *Adam de Domerham*, and the *black Book* of the *Exchequer*, &c.

(b) This Blunder I find has reach'd my Author's Ears, and in his Preface to *The Caius* stands corrected, tho' with some Reluctance. For he says, it signifies nothing whether it was *Pharaoh's* or *Potiphar's* Wife.

Had

Had this unfortunate *Prince* lived some hundred Years before he did, Mr. *Hearne's* Love for *Antiquity* might probably have engaged him in his *Defence* rather than in *exposing* him. We find him, in the (c) Appendix to *Leland's Collectanea*, very angry with *Tyrrel* the Historian for staining the Reputation of *Ethelred* and his first *Queen*: There he says 'it is a great Crime to 'scandalize any Person; the Heinousness of it increases according to the Dignity of the Person, of whom the Scandal is raised: But this (says he) may be wiped off by a publick *Retraction*.

This was good Doctrine, had not a Preface to *Cambden's* *Queen Elizabeth* shew'd, that Men do not always practise as they advise: But a publick Retraction, which

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(from the Ingenuouſneſs of Mr. *Hearne's* Diſpoſition) I have Reaſon to think he will make, may wipe off the Blemiſh he may have contracted, either in the Caſe of Prince *Charles*, or the indecent Language given Mr. *Smith*. His Pretence to *ſtrict Integrity*, I am almoſt confident, will prevail with him to do it, in a better Manner than diſguiſing it in a trifling *Apology*; and as he is a ſtrict Enquirer after *Truth*, and is by this Time convinced it was wrong to publiſh the *Letter*, or abuſe the aged *Divine*, I don't doubt but in his next *Work* he will retract what he has ſaid in both Caſes, and fruſtrate the Expectations of ſome People who think he delights in *Abuſe*, by acknowledging me his *Friend* in ſetting him right.

Thus have I conſidered one of his excellent Qualities; the next is his *Fidelity* as an *Editor*.

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One Rule which I have been informed he at first laid down, and generally speaking closely observed, was always to follow his Authors religiously. Their Mistakes by this means were punctually copy'd and sacredly preserved: Nay, the very Blunders of Transcribers were faithfully penn'd down for the Amusement of Posterity. *Prurigo emendandi ac commutandi a Nobis plane absit*, are his own Words in the Notes after the Appendix of *John of Trokelowe's Annals of Edward the Second*. And again, in^(d) *Leland's Itinerary* he declares, that he was so nice in this Affair, that 'I observed (says he) Mr. *Leland's* 'Way of Spelling, and omitted 'nothing, not so much as the Asterisks, and other Notes of that 'Nature that had been inserted 'by him: Nor did I leave out

(d) *Leland. Itin.* Vol. 1. p. 15.

' even

xxxviii *To the READER.*

‘even those *Words* that are plain-
 ‘ly *redundant*, nor pretend to
 ‘alter those that are manifestly
 ‘*wrong*, and occasion’d by the
 ‘Haste the Author was in, or else
 ‘by the Defect of his Memory.

This Method is very observa-
 ble throughout the numerous Vo-
 lumes he has obliged the World
 with. *Sic MS.* he has noted per-
 haps in the *Margin* to shew that
 he was not ignorant of the Error
 in the *Copy*. *Delenda sunt ut*
opinor may possibly be seen at the
 Bottom of one Page, and *lege &c.*
 at another. Here perhaps may
 be a *Desunt &c.* and there a *Sub-*
intellige &c. But still amidst all
 these Regulations, the Text is
 generally kept *purely corrupt*, and
 scarce a Blunder thro’ the whole,
 but what is very industriously
 preserved. Nay, so great a Re-
 gard has he for the old Way of
 Spelling, that the following *E-*
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pistle (which I have printed as like the Original as possibly I could) is a standing Proof of it.

There are indeed a few Cases in which he has vary'd from this Rule, (e) which might have been conceal'd, ' *had I not been apprehensive* (to use his own Words ' in another Case) *that some Persons, if such Slips should be stifled, might have interpreted it a great Instance of Partiality, and made base Reflections upon it.* One of this Nature I must not pass by, least his Character should prevail (as probably it might) with some Men hereafter to establish his *Errors for Truths.*

(f) Dr. *Leonard Hutton*, in his *Antiquities of Oxford*, has quoted a Line from *Shepreve's Life* of (g) Dr. *Claymond*, concerning a *Shed*

(e) History of Rich. II. p. 404. Cur. Sec.

(f) Dr. *Hutton*, Student of Christ-Church, about the Year 1574.

(g) Dr. *Claymond* President of Corpus.

that

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that formerly stood in the *Corn-Market*, built to skreen the Corn from the Weather. Upon this there was an Inscription, and the Copy from whence he transcribed it, had it thus, *viz.*

Ut possit *sircum* Saccus habere locum.

In this Verse there appears a palpable Error, which a Reader of no extraordinary Capacity might have discovered and corrected. But see the Misfortune of not following an old Rule. By an unhappy Conjecture he has wander'd from his *Copy*, and to make *better Sense* of it he has acted the *Critick's* Part, and mended *sircum* with *circum*. But I think the Alteration of that *Letter* makes but little Difference in the Sense. The Lines (as I copy'd them from the MS. Life now in the *Musæum* at *Oxford*) run thus, *viz.*

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To the READER. XLI

Plebs ubi Rura colens, empturis hordea vendit,
Aspice quadrifido tecta propinqua foro.
Hoc erexit opus talem Claymundus in Usum
Ut *Siccum* possit Saccus habere Locum.

Whether this Mistake arose from his not having an Ear for the *Monkish Musick*, an Error of the like Nature may serve to determine.

(^h) In the Catalogue of his Works, annexed to the History of *Glastonbury*, he has published an Inscription in the following manner, now to be seen in the Remains of *Rewly*.

ELE LONGESPE COMITISSE DE
VERVIC VISCERA SVNT HIC.

Mr. *Wood* saw this entire, but afterwards it was broken, and unskilfully placed in a Wall of one of the lower Rooms of (ⁱ) *Rewly*, where Mr. *Hearne* says, he has

(h) *Antiq. Glaston.* p. 337.

(i) A Monastery adjoining *Oxon*.

XLii *To the* READER.

often seen it, and that it is very legible. In this ancient Inscription I find there is a *Jingle* too; and had it been so legible as he declares it was when he saw it, I am surpris'd that *He*, of all Men, should be so inaccurate a Copyer (a Trade he has followed almost all his Life) as to transpose one Word and add another, instead of taking it as it really is,

ELE DE WERWICK

COMITISSE VISCERA SUNT HIC.

The Word *Longesse*, inserted in his Account of it, is not upon the Stone, how legible soever he asserts it to be; and the Spelling of *Werwick* quite altered by him, without the least Authority whatever but his own.

This Blunder may in some Measure be accounted for in this Manner. ---- There is now in the *Anatomy School* (which was formerly under the Care of Mr. *Hearne*)

To the READER. XLiii

Hearne) a Stone found at *Rewly* (probably the Foundation-Stone of a Chapel there) bearing this Inscription---ELE LONGESP COMIT: WAREW: HANC CAPELLAM FECIT:

This no doubt had often been perused by my *Antiquary*, as well as the other before mentioned; and perhaps the trusting too much to Memory, might raise a confused Notion of both Inscriptions, and corrupt the *Monkish Jingle* in the former Case.

These few Mistakes then have taken their Rise from not sticking closely to his *Copy*: I shall take Notice of but one more, which was occasioned by following it too closely; and it may be seen in his Edition of that valuable ^(k) MS. which is said to have belonged formerly to Venerable *Bede*.

Let it be observed in the first Place, that this MS. is in very old

(k) MS. *Latino Græc.* Fol. 38.

XLIV *To the READER.*

Capital Letters, and each Page divided into two Columns: The first contains the *Latin*, the *Greek* is wrote collaterally in the other. Thro' the *Oscitancy* of the Scribe, the *Latin* Sentence is frequently carried beyond the Bounds of its own Column, by which means it becomes intermixed with the *Greek*. The Text as he has printed it stands thus: *viz.*

MIRARI COEPERVNT ΕΘΑΥΜΑΖΟΝ
ET CONFUNDEBANTVR ΜΕΝΤΕΚΑΙΔΙΗΠΟΡΟΥΝ.

At the Bottom of his Page (not contented with Dr. *Mills's Reading*) he adds *sic plane in Codice nostro non εθαύμαζον & διηπόρουν ut apud Millium*; tho' it will appear beyond all Dispute upon any one's Enquiry, that the Dr. was not in the least to be blamed. For, as I observed before, thro' the Careless-

lessness of the Scribe, the Latin Line being carried beyond its due Bounds into the Greek Column, and the Words MENTE and MEN TE consisting of five Capital Letters, just the same in both Languages, unhappily led Mr. *Hearne* into this Mistake. So that by defalcating one Word from the Latin, and converting it into two Greek ones of no Signification at all, he spoil'd the Sense of the one, and made the other quite superfluous. — But some Faults sure are pardonable in so voluminous a Writer.

To be particular in shewing his Talent at *Reasoning* would, I fear, be making too free with my *Reader's* Time: I might quote three Parts of his Discourse on the *Stunsfield Pavement*, had not Mr. *Poynter* thoroughly considered it already; and give such Instances of it which nothing but

Envy

XLVI *To the READER.*

Envy or *Ill-Nature* could find fault with. But the following *Epistle* prevents my dwelling upon this Excellency, it being a Master-piece of its kind, and what the Reader, I hope, will be greatly delighted with.

But let the *Epistle* speak for itself: There is one Paragraph in his ⁽¹⁾ Preface to *Sprott's Chronicle* which really seems to be a new Method of *Reasoning*, such as no Writer but himself, I believe, dares lay any Claim to. He is there speaking in *Sprott's Praise*, and his Words are these — *Adeo ut non videam cur mihi sit Detrimeto, si publice declarem me opinari de Academia nostra Oxoniensi Opus etiam justum ac distinctum contexuisse*: And then comes the Reason in the very next Sentence, viz. *Opinionem favet Auctoris Pietas. Quod si Tu aliter sentias,*

(1) P. 28, 29.

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To the READER. XLVII

Ego in Sententia non perstabo,
nec quorsum recidant quaecunque
animadverti magnopere laborabo,
si modo illud concesseris de Collegio
Cantuariensi Opus post se reli-
quisse, in quo multa itidem de tota
Academia è Monumentis præ-
claris obiter notaverit.

This is the Argument produced
to prove that the Author of that
lean Chronicle (whether *Sprott* or
some other, it not clearly ap-
pearing that *Sprott* was the Au-
thor of it) composed many other
valuable Books, not at all in-
ferior to the *Chronicle* which is
published. Great Pity indeed!
that such profitable works should
be buried in Obscurity; and
doubtless was there not some
Hope of their being still recovera-
ble, *Sprott's* Admirers (how in-
flexible soever in other Cases)
would lament greatly under their
Loss in this.

Agree-

XLVIII *To the READER.*

Agreeable to this new Method of Reasoning we find an uncommon Conjecture in his Preface to the Sixth Volume of *Leland's Itinerary*, which very few Writers would ever have made. From a Medal of *Carausius* bearing this Inscription, VICTORIA CEA. he endeavours to prove, that the Brogue of the common People is the true Standard of the *Roman* Dialect and Pronunciation. The word *Cæsar*, according to this curious Remark, is not to be pronounced as it generally is by People of Fashion or Breeding, *Cesar*, but agreeable to the broad Manner of Speaking used by the most rustick of Mankind, and as it stands upon the Coin, CEASAR.

I acknowledge this Observation to be a very curious one, and to stand upon the Authority of a Medal, but if it should ever be discovered, that it proceeded from
an

To the READER. XLIX

an Error of the *Mint-Master*, from a simple Literal Transposition, or from any other Accident (as possibly it might) the Remark will then sink in its Value; The Coin indeed may be curious upon the Account of the Blunder, but is no more an Argument to ascertain the Truth of Dialect or Pronunciation, than that *spurious Halfpenny* of His present *Majesty*, would be a Standard in the Next Age for pronouncing GEORGIVS instead of GEORGIVS.

It would waste too much of the Reader's Time probably, to offer here a Collection of all the Poetical Fragments scatter'd thro' his Labours; the Preservation of which by Printing them, I must observe, shews no small Desire to be useful to Mankind, as these Rhythmes contain either Lessons of Oeconomy; such as,

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With

To the READER.

With a red Man reade thy read ;
With a brown Man break thy Bread ;
At a pale Man draw thy Knife ;
From a black Man keep thy Wife.

Rob. Glouc. 2 Vol. p. 698.

Or an Account of an ancient local Custom :

Ule, Ule, Ule, Ule,
Three Puddings in a Pule,
Crack Nuts and cry Ule.

Rob. Glouc. p. 679.

Or else an Illustration of a Pedigree :

William de Coningsby
Came out of Britany,
With his Wife Tiffany,
And his Maid Manfas,
And his Dog Hardegrafs.

Thus have I collected some Memorials of Mr. *Hearne's* Life, and have taken the Liberty to correct some few Mistakes in his Writings. In a Thing of such Moment I have been very careful

To the READER. Li

fully not to offend either my Reader or Author; avoiding *Flattery* on the one hand, and *Scandal* on the other. I have described his good Qualities as they have occurred, and rectify'd some Errors he unfortunately fell into, in order to save him the Trouble of doing it himself.

I little thought indeed when I undertook to publish this *Letter*, that a Defence would be expected for my doing it, or that I should make His Friends my Enemies by it. But for want of better Knowledge of the Nature of the Affair, it was no sooner advertised than at once condemned as *malicious*, or at least *Impertinent*. At first Sight indeed I own it carries a bad Aspect, to publish a Man's Letter without his Consent, but when Circumstances are rightly considered, and the whole Matter weighed a little, I don't
G 2 doubt

doubt but Mr. *Hearne* himself will laugh at the ill-digested *Zeal* of his *Esposers* in this Case, and be obliged to those *Gentlemen* who caused the Publication of it, by engaging themselves to take off such a Number when published. To set those Persons therefore right, who could not encourage this Performance consistent with Conscience, and to wipe off the Dirt which others have secretly endeavour'd to bespatter me with, I shall offer a few Lines in my own Defence; and a few I believe will serve as a sufficient Answer.

As for the *Malice* objected to me, I have no other way to clear my self of *that*, than by seriously declaring, it never once entered my Thoughts; and as for the *Impertinence* of it, the same Reasons that prove against *me*, will rise in Judgment against Mr. *Hearne* likewise. When I first discovered
this

this Letter in MS. the Title had something in it so very odd, that I could not forbear looking farther into it, and read it at first with a good deal of Surprize. I was very much pleased with the Author's Labour, though shock'd with the Principle on which the Treatise was built; and intended to have considered how far the *Common Good* would justify Men in laying aside an Oath, where there was no Judge to determine when it was for such a Good; had I not been prevented by answering these Insinuations of its being a Malicious Thing to print it.

As I found it a learned and laboured Piece, I thought it might please the Reader, if it did not profit him: Nay, I am not ashamed to own, that I had an Eye to my own Interest in doing it. The Author's Name I was satisfied was well known to the Learned

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LIV *To the READER.*

ed World, and his Works always
fold at an *excessive* Price; so that
I imagined no one would raise
Objections against me for consult-
ing my own Profit in publishing
Mr. *Hearne's* Works, any more
than they would against him for
printing other Peoples. The
Letter itself is a Vindication of
those who took the Oath of Alle-
giance to King *William*; and I
cannot think it any bad Part of a
Man's Character to give his Rea-
sons for complying with that
Oath, which others refused. The
Point was disputable, and Cen-
sures no doubt were passed upon
the *Jurors* as well as *Non-jurors*.
His Reasons for Compliance (how
weak soever in the Eyes of those
of a different Perswasion) were
doubtless good in his own; and
if he has discovered better now
for refusing the Oath, than he be-
fore gave for the taking it, 'tis
an

To the READER. 115

an Argument I think of his constant Enquiry after *Truth*, and of his discharging his Conscience as he improves in Knowledge.

This however is plain, that he did not proceed in a Concern of such Moment with Levity or Rashness; but after a Mature Consideration he ventured to take the *Oath* of *Allegiance*, and gave his Reasons for it in this *Letter* accordingly. His Worldly Interest, 'tis manifest, was no Motive to him; He shewed himself a strict Enquirer after *Truth*, and did not comply upon the sordid View of raising his Fortune upon the Ruins of his Integrity. How he became dissatisfied in this Affair since shall not be my Business to enquire.

Why Mr. *Cherry*, whose Friendship for him was inviolable to the Day of his Death, should suffer this *Letter* to be placed in a Publick

LVI *To the READER.*

lick Library (where he knew every thing was to be seen) had he not apprehended it to be for Mr. *Hearne's* Credit, I cannot conceive. Some indeed have objected, that it was not left so by his *Will*, which I own I have not had an Opportunity of enquiring into, contenting myself with the exprefs Testimony of the *Register* of Benefactors, which I thought Authority enough for my asserting it. And doubtless, had it not been his *Inclination* at least that it should be so lodg'd, he would have cancelled it himself in order to prevent its being publick, or ordered it to have been consumed with other useles or private Papers.

But such was that Gentleman's Integrity, and his Regard for Mr. *Hearne* so steady, that notwithstanding the Letter differed from him in Principles, and opposed his

To the READER. LVII

his own way of Thinking, Yet as it was drawn up in a conscientious Manner, and illustrated with many curious Instances, it seems to have been his *Desire*, if not his express *Will*, that it should be deposited in this Place of Learning for his Credit as a *Writer*, and Character as a *Christian*. Upon the Whole I hope the Objections urg'd against me for publishing a *Letter* of so much *Worth*, pen'd with so much *Judgment*, and supported with such *Arguments*, will appear more like *Malice* and *Impertinence* in the *Objectors* than in *Me* for making it publick. The same Reason then may be given for my printing a Treatise of my Author's, which he himself gave for publishing Letters of Dr. *Langbaine's*: ^(m) *His itaque de Causis in lucem protuli quoniam erudita est Epistola, & Auctoris*

(m) *Leland. Collect.* Vol. 5: p. 282.

LViii To the READER.

*Nomine digna, multaque conti-
neat à Re Historica non aliena,
& hanc statui mihi esse descri-
bendam jurisque publici facien-
dam. Neque dubito quin tu,
Lector benevole, æqui bonique sis
consulturus.*

AT the earnest Request of
several of my Friends, I
have here reprinted that *Letter*
which Mr. *Hearne* made publick
of *Charles* the First, when Prince
of *Wales*, that my Readers may
see how little Room there was
(even Supposing it to be an Ori-
ginal one) for so ill a Construction
as has been put upon it.

STEENIE,

I Have nothing now to wryte to
you, but to give you thanks
bothe for the good counsell ye gave
me, and for the Event of it. The
King

The LETTER. LIX

King gave mee a good sharpe portion, but you tooke away the working of it, by the well relished Comfites ye sent after it. I have met with the Partie, that must not be named, once alreddie: and the cullor of wryting this Letter shall make me meete withe her on Saterdag, although it is written the day being Thursday. So assuring you that the busines goes safelie onn, I rest

Your constant loving freind

CHARLES.

I hope ye will not show the King this Letter, but put it in the safe custodie of Mister Vulcan.

On the Back this:

Pr. Ch. to the Duke.

Without Date.

ERRATA.

Pref. p. 21. l. ult. leg. p. 27. dele p. 17.

The latter

King gave me a good letter
yesterday, but you took away the
ing of it, by the way, I have
first of last night, I have not
with the paper, that must not be
written, once in a while, and the
color of writing this letter shall
make me more with you on
today, although it is written the
day being Thursday. So offering
you that the business goes faster
than I can

Your constant loving friend

CHARLES

I hope you will not show the King this
letter, but put it in the safe custody
of Miss V. I can

On the Back this:
Pr. Ch. to the Duke
W. I. I. I. I.

ERRATA

Vol. p. 21. l. 1. sh. 1. p. 2. sh. p. 17.

Oath of Allegiance

VINDICATED

By

Mr. Hearne, now a Nonjuror.

SIR,

IN a former Letter, I endeavoured to Vindicate those who have taken the *Oaths of Allegiance* to His Present Majesty, from the Imputation of *Perjury*, *Injustice*, and *Disloyalty*, cast upon them by such as Scruple them, by shewing That when the King himself Breaks His Oath by Tyrannizing upon, and Depriving his Subjects of their Liberties, and consequently the *Common GOOD of the NATION* requires either his Deposition, or, at least, that a Restraint should be put upon him some other way, those who had taken *Allegiance* to him before, are solved from Obligation to him. . This I did especially by what passed between King *Henry VIth*, and *Edward IVth*.

A

Now

2 *Mr. Hearne's Vindication*

Now Understanding what I there said hath not that Effect as was expected, I hope it may not be taken amisse, if in this Letter, I prosecute the *Same Thing* further, by giving

First an *Historical* Account of what passed in Relation to *Maud* the Empresse, and *Stephen* Earle of *Blais*, as to the Sitting upon the Throne;

Secondly, Shewe That those who tooke an Oath to *Stephen* as to their Sovereign Lord, notwithstanding they had before Sworne Allegiance to Her the Empresse, thought themselves, yea even were, loosed from their Obligation to her, because the *Common Good* of the *Nation* so required it.

First therefore as to what passed in Relation to the Sitting upon the Throne.

HENRY the First of that Name, King of *England*, Son of *William Conqueror*, and, for His Great Learning, Surnamed *Beauclerke*, or ever the Warre was begune betweene him and his Discontented Brother *Robert*, Duke of *Normandy*, in the first Year of his Reigne 1066, married *Molde* or *Mawde* the Daughter of *Malcolyne* or *Malcolme* King of *Scotland*, and of *Margaret* his Wife, Daughter of *Edward*

(a) Vid. *Speed's Chronicle*.

the

Of the Oath of Allegiance. 3

the *Out-Lawe*, by whome, as some *Chronicles* say, he had two *Sonnes*, and two *Daughters*, that is to say, *William*, and *Richard*, *Mawde* and *Mary* b. *Polydore Virgil* saith c, That of *Mawde* were borne *William* and *Mawd*, and of a *Concubine* *Richard* and *Mary*.

But *Polydore* is an *Author* who had more regard to *Elegance of Expression*, than *Truth*, which ought to *Overballance* every thing else in an *Historian*, and therefore, in this *Relation*, I shall not make any *Quotations* from him, knoweing very well that *Leland* speaks of him according to his *Desert* d, when discovering his *Error* in the *Rise* of *ISIS*, he writes thus:

Utinam Polydorus tam oculatus fuisset testis in Rebus Britannicis, quam intersim est tersus, nitidus, elegans. Na ille tam exegisset opus immortalitate plane dignissimum: modo & eadem opera cognitionem utriusque Linguae, videlicet Bitannicae, & Saxonicae, tanquam ad Coronidem adjecisset. At ille interim laudandus plurimum, qui domi Sedens, & Numeroso Veterum Auctorum de Rebus in Britannia gestis Scribentium praesidio destitutus, praestitit in tanta angustia, quanta potuit alius

(b) Vid. *Grafton's Chron.*

(c) Sub an. 1120.

(d) in *Comment. in Cygneam Cautionem* in voc. *ISIS*.

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quisquam maxima. *Hec ego de Polydoro
modeste satis, ut arbitror, & candidè retuli,
quem interim aperte de me male loqui, &
sentire certo scio, id quod susque deque fero.*
But however this be, certain it is, and all
Chronicles mention it, That King Henry,
having ended his Differences with the
French King, who had usurped upon Part
of his Lands in Normandy, Anno Dom.
C10: C: XX returned into England, with
a great Deale of Joy and Pleasure, and
was received with as much. Nothing
now but Mirth and Praise of the King,
for his Victorious and Happy Undertak-
ings. But the Old Adage always holds
true:

Miscentur tristia latis;

And the like Saying of an Old Celebrated
Poet, *Seva Noverca dies nunc est, nunc
Mater amica.* For on a sudden the most
sorrowful and unexpected News: was
brought to the King and whole Kingdome,
as ever, I may say, was heard of in Eng-
land. For the King's Sonnes and his
Daughter, with other Nobles to the
number of 140, as some *Chronicles*, to the
number of 160, Persons, as others, be-
sides fittie Marriners, having taken Ship
at Harflew, thinking to follow the King,

(e) Hesiod. in Lib. cui Tit. Opera & Dies.

and

Of the Oath of Allegiance.

and Sailing forth with a South-Wind, their Ship through Negligence of the Mariners, proceeding from the Prædominancy of Old *Bacchus* in their Heads, having entertained him with the greatest Security, was throwne upon a Rocke, and utterlie perished on the Coast of *England*, upon the 25th of *November*, So that of all the Companie, none escaped to bring News of this Dreadful Accident, but one Butcher, who catching hold of the Mast, was driven with the same to Shore, which was neare, and so was saved from the greatest Danger.

Matthem of *Westminster* says nothing of the Marriners being Drunke, but thinks that this Punishment from the Waves happened deservedly: *In vita enim eorum in libidinem fluxerunt enormem: Unde creditur, eos enormiter in Mari tranquilissimo Vitam in puncto terminasse.*

A Lamentable Case truely it was, to be deprived of Children thus! However the King's Eldest Sonne *William* might have been saved by Boat, had not the Cries of his Base Sister, the Countess of *PERCH* made so deep an Impression upon him as to make him endeavour her Safety, which yet was in vaine, and to his owne Ruine;

(f) *Hist. L. 2, p. 39.*

for

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for whilst he was busie in taking her in, others leaping in, overloaded the Boat, whereby all miserably perished: Thus *William of Malmisbury*:

Jam alios undis exponebat, alios ingressa per rimas aqua cecidit, cum jam ejecta Scapha filius Regis excipitur, servarique potuisset ad littus regressus, nisi soror ejus notha Comitissa Perticiæ in majori Nave cum Morte luctans, famineo ululatu Fratris opem implorasset, ne tam impie se relinqueret. Ille Misericordia infractus lembum Carinae applicari jussit: Ut Sororem exciperet, mortem misellus pro Clementiæ teneritudine indeptus. Continuo enim multitudine insilientium Scapha victa subsedit, omnesque pariter fundo involvit.

The more heavy the News yet: For this *William* was the King's Eldest Sonne, and the next Heire to the Crowne, and was endued with such Excellent Qualifications and Accomplishments, as drew the Hearts of all to him. So *Malmsh*:

Filium habuit Rex Henericus ex Matilde Nomine Willielmum dulci spe, & ingenti cura in Successionem educatum & provectum. Nam & ei, vix dum xii annorum esset, omnes liberi homines Angliæ & Normanniæ, cujuscunque Ordinis & Dignitatis, cujuscunque Domini fideles,
manibus

Of the Oath of Allegiance. 7

manibus & Sacramento se dedere coacti sunt. *Filiam quoque Fulconis Comitis Andegavenfis vix Nubilem ipse etiam impubis despondit, & accepit dato sibi a Socero Comitatu Cenomannico pro Munere Sponsalico. Quin & Jerosolymam Fulco ire contendens, commendavit Comitatum Regi suum, si veniret, futuram profecto generi, si non rediret. Plures ergo Provinciae spectabant Nutum Pueri, putabaturque Regis Edwardi Vaticinium in eo complendum: ferebaturque Spes Angliae modo arboris succisa, in illo juvenculo iterum floribus pubescere, fructus procudere, & ideo finem malorum spectari posse.*

Huntingdon relates this memorable Shipwreck thus, without mention of Young *William's* Endowments, or of the Possibility of his Escape.

Anno C13: C: XX. Gratia omnibus domitis & pacificatis in Gallia cum Gaudio Rex Henericus rediit in Angliam: Sed in ipso maris transitu duo Filii Regis *Willielmus* & *Richardus*, & *Filia Regis* & *Neptis*, necnon & multi *Proceres*, *Dapiferi*, *Camerarii*, *Pincerna Regis*, & *Richardus Consul Cestriae* naufragati sunt. Qui omnes vel fere omnes Sodomitica Labe dicebantur & erant irretiti. Improvise igitur (the same with what *Westmonasteriensis*

saith

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saith in the Words above cited) Mors Absorbuit emeritos, cum mare tranquillissimum ventis careret.

The most Learned, and Judicious Sir *Walter Raleigh*, in that most admirable Booke of his Intituled *The History of the World* & thinks that this great Slaughter by the *Watery Element* happened as a Punishment to King *Henry* for his Unnaturalness to his Eldest Brother *Robert* the Lawful Heire to the Crowne, and his other Enormous Crimes. Which cannot be gainsaid, it being a thing too often seen that Children are Punished for their Parent's Transgressions.

By this memorable Accident also the Falsity of King *William Rufus's* Speech was remarkably Experienced, which he utter'd to the Ship-Master upon his going to *Normandie Anno Dom. C13: XC: IX* upon Notice that *Nans* was besieged by his Enemies, whome a little before he had Quieted. Namely the King being at Dinner rose hastily up, tooke Shipping, and, notwithstanding there was a great, and tempestuous, Wind, forced the Master on, (who advised him to Stay 'till it was Settled,) Saying, *That he never heard as yet of any King that was drowned.*

(g) In the Preface.

King

Of the Oath of Allegiance. 9

King *Henry* therefore being, as hath been related, so unexpectedly Deprived of this Flower, whose sweet Dispositions had drawne the hearts of all to have a great Affection towards him, was beset with nothing but Sorrowe, and Troubles; as indeed well he might, seeing he lost his Life so ignobly, proceeding, according to the general Report from Carelesnes and Vice, notwithstanding his Death was noble in this, that rather than his dear Sister should loose her's, he would hazard his owne, Life, altho it be the common Opinion that he is rather to be blamed than praised, who being in the greatest Danger, instead of freeing himself from it, labours to save others who are in the same, notwithstanding he sees it will be a kind of Miracle to save his owne Life.

To make up this Gappe, the King in the Yeare next^h following, *April 10th*. [If I remember rightly *Master Stowe* saith it was *Jan. 3^d*] married a Second Wife named *Adelicia*, a Lady of Excellent Beautie, and Noble Endowments, Daughter to the Duke of *Lovaine*, and Descended of the Noble Dukes of *Lorraine*.

*John Hardyng*ⁱ also, after having given

(h) Vid. *Hollingsh. Chron.* pag. 41. *Lond.* 1587.

(i) *Chron. Vit. Hen. I.* fol. c:xxx:v. pag. 2, *Lond.* 1543.

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an Account of the Shipwrecke, tells us
That the King Marryed againe, and so
say all other *Chronicles*. *Hardyng's* owne
words shall here be added.

The Third Yere after [*viz.* after the Departure to *Normandy*] to England came again,
The Duke his Sonne, Willyam of Normandy,
His Brother Richard also, the Sothe to Sain
And Erle Richard of Chester in Compaignie,
With many other Lords, in Shippes them bye
Uppon the Seas were dreint in greate Distresse.
Of the whiche the Kyng, had then greate
hevinesse.

Whiche Duke William had wed the Daughter
then

Of Fowke Talboys, Erle of Angeow had bene.
With whom a C^o Knightes withe many Menne
And Ladies many, were drowned as was seene.
And then the King wed Hadelyse the Quene
The Duke Godfrey Daughter, that was of
Loreyne

Of His Mourning to comforte hym againe.

A Lady of such both *External* and *Internal* Endowments promised the fairest
that she should have a numerous offspring,
yet herein the King was Deceived, and
all his Labour for this End (which you
may be sure was not small) was defeated.
For he had no Issue, to the Renovation
and Augmentation of his Grief, by her.

Nothing

Of the Oath of Allegiance. II

Nothing now was to be done by the King but to take Care the Crowne might be settled upon his Eldest Daughter *Maud*, and her Issue. *Anno Gratia* therefore 1126. the King being in *Normandy*, and understanding that *Henry* the Emperor (his Daughter *Maud's* Husband, she having beene married to him *an. 1108.* being then not above 5 Years of Age, for her Birth was in the latter End of *CIO. C. I.*) was departed this Life at *Utrecht*, the 13. of *May an. 1126.* sent for his said Daughter the Empresse to come immediately over to him into *Normandy*; and having set his Business in order on that side the Sea, and taken her with him, he returned into *England* before the Feast of *S. Michael*, where calling a Parliament, in the Presence of himself, and *David* King of *Scotland*, he caused the Nobles (and first above all others *Stephen* his Sister's Sonne, who, as shall be said, first Violated it,) to swear Fealty to her, as to his Lawfull, and now onely Heir, by which they should be againe Governed by one of the Royal Blood. The Oath was this, *That they should as much as in them lay, after King Henry's Decease, (if he Died without Heir-Male) establish her Queene of the Monarchy of*

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Great Brittain, now called England. But whether they did or no (saith *Gemeticensis*) belongs not to me to tell. *Gyraldus* ^l and *Hygden* ^m and some Ancient ⁿ MSS. Affirme (but with very little Probability or Credit) That the Emperor *Henry* Died not at this Time, according to the general Bruite; but that rather upon a Remorse of Conscience arising from his Imprisonment of his owne Natural Father to Deathe, *Hen. viz. 3d*; and also his Spiritual Father the Pope with his Cardinalls; repenting of these Abominable Actions, he laid aside his Imperial Roabe, and with all Secrecy fled into *England*, intending to do Pennance, by Severity of Life, for them; Accordingly that at *West-Chestre* he became an *Hermite*, changing his Name into *Godscall*, (as being now called of God) where he to lived for the Space of 10 Years, and was interred in the Cathedrall Church of *St. Werburga* the Virgine. Upon which his sudden Flight, the Empresse *Maud* his Wife, saith *John Stowe*, ^o was suspected to be guilty of his Death, and for that Cause was kept continually in the King's Cham-

(k) P. 680.

Lib. 7. c. 16. Hoved. in Hen. I.

(o) In his Annals.

(l) *Itinerar.*

(m) *Polychr.*

(n) See *Speed.*

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Of the Oath of Allegiance. 13

ber. Here Master *Stowe* is infallibly out; for notwithstanding She was kept in the Chamber with the Queene, as *Matthew Paris* saith also, yet it is no good Reasoning to say it was for her Wickedness; for even the said *Paris* gives us a much more wise and solid Reason, and withall altogether consonant to Truth, for her being so kept, viz. for that her Father did love her exceedingly, as being now his sole Heir. An honourable Place truly to live there; for what place may be more noble than for the Daughter to live with the Queene her Mother? Where could She have been more secure from Enemies than in the Palace of her Mother and Queene? And without doubt the King well considered this; knoweing That several Dangers were in other Places whereby he might easily be robbed of this his Designd Successor. And that the same *Stowe* also was as much in the wrong for assigning her Burying-place at *West-Chestre*, in *St. Werburg's* Church, appears, First from those who write of the Antiquities of that County, p who mention no such Matter for certainty, which sure they

(p) Vid. *William Smirk's* and *William Webb's* Descriptions of *Cheshire*, published by *Dan. King*, in Folio.
wou'd

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wou'd do were they certified of the Truth hereof; Secondly, The Generality of *Chronoclers* tell us, he was Buried at Spire, with this Epitaph:

Filius hic, Pater hic, Avus hic, Proavus jacet istic. As even Brompton tells us 9: *Eodem anno Henricus 4. Imperator gener Henrici Regis obiit, & Secundum quosdam apud Spiram, cum Progenitoribus suis sepelitur.* Where by *Quosdam* that he must understand the Greatest Part of *Chronoclers*, the Reader will grant, after he hath Searched our *English* Writers upon this Subject, and more especially from his Citation of *Giraldus*, onely for the contrary Opinion, to which he gives the most Credit. For thus he writes immediately after: *Veriustamen videtur Giraldus in Itinerario Walliæ sentire, ubi dicit Quod Henricus iste postquam Patrem suum Spiritualem Dominum Papam, cum Cardinalibus, ut supra dictum est, incarceraverat, & etiam Patrem suum Carnalem incarcerando debonestaverat, tandem ad Cor rediens, ultroneus exul factus est, & Matilda, filia dicti Regis Henrici, uxore clam dimissa, apud Cestriam per Decennium Hermeticam duxit Vitam, ubi dum viveret, ne cuiquam innotesceret,*

(q) Chron. P. 1015. Col. 1. Sub. an. 1125. inter Scriptores 10. Angliæ Antiquos, Lond. 1625.

Of the Oath of Allegiance. 15

Godefridum se vocavit, quod sonat à Deo vocatum. Sic igitur Imperator latenter digressa, Matildis Imperatrix sine prole aliqua ab eo concepta, ad Patrem suum Regem Henricum in Normannia adhuc existentem rediit.

See for this Particular, if you please, more especially *William Gemeticensis*, who also reporteth *Maud* to be a Woman generally well thought of, and approved among the Greatest Princes of the Empire, for her Prudent and Gracious Behaviour towards the Emperor her Husband; insomuch that they became Suiters unto her, seeking by all means to attaine her to Govern them, and to that end attended her to *K. Henry* in *Normandy* to Sollicite the same; to whome in no wise he would give his Consent, meaning to make her his Successor in the Kingdome: Unto which *Malmesb.* (who then lived) accordeth; saying: That She was extremely unwilling to come out of those Parts of the Empire, where both her Dowry and Acquaintance lay, and that the Princes of those Countries made more than one single Journey into *England*, to sollicite the King that She might be their

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Empresse; but the King would not part with the Heire of his Crowne.

Afterwards the King to be free from the Complaints and Disturbances of Foreign Princes, concluded a Marriage between *Jeffry Martell*, Sirnamed *Plantagenet*, Earle of *Anjou*, Sonne of *Foulke*, who also gave his Sonne with the Earldome, the Territories of *Gauze*, and *Tbury*, and his said Daughter the Empresse, which was Solemnized in *Normandy* the 3d of *April*, *an. prae.*

Anno Dom. 1155. C. xxxi. His Daughter *Maud*, for some Displeasure, between her and her Husband, Departed from him and came into *England*. Some write That She was the Provoker of certaine Displeasures between her Husband and Father, which so affected his Mind with Passions of Grief, that many thought it was a great Hastning of his End; And indeed *Malmesburie* u saith, That the King upon his Death-Bed passionately mention'd the Wrongs and Indignities wherewith her Husband had Disquieted his Mind. Howbeit soone after this her Departure from him, by Consent of the Estates, who met at *Normandy*: She was

(t) Vid. *Reg. Hoved.* in *Hen. I.* *Hunt.* in *Hist. Lib. 7.*
(u) *Novel. Lib. 1.*

Of the Oath of Allegiance. 17

reconciled to her Husband: Sent unto him upon his Intreaty: And, *Anno Dom. 1132. c. xxxi. ut supra*, bare him a Sonne, whose Name was *Henry*; for Joy whereof, King *Henry* assembled his Lords, and againe made his said Daughter, and the Lawfull Heires of her Body Successors in his Dominions.

Thus *Malmesb.* in his owne Words; [Yet it must be noted that *Chroniclers* Differ in their Assignment of the Yeare, Some placing it in *Anno Domini 1127.* others in——28. others some in 1132.] Convocato ergo omnibus Regni Principibus (or, Magno Concilio Cleri & Populi) apud *London*, filiam suam & Hæredes ex ea nascituros, sibi constituit Successores; & fecit Archiepiscopos, Episcopos, Abbates, Regemque *Scotia David*, & Comitibus & Barones totius suæ Dominationis jurare fidelitates *Matildi filia ejus*, & *Henrico* Filio ejus, adhuc minimo, & constituit eum Regem post se. Juramentum ergo cuncti, quicunque in eodem Concilio alicujus videbantur esse momenti, primo *Willielmus* Cantuariæ Archiepiscopus, mox cæteri Episcopi, nec minus Abbates. Laicorum, primus juravit *David* Rex *Scotia*, ejusdem Imperatricis Avunculus, tunc *Stephanus Moritonij*
C Comes

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Comes & Bononia, Nepos *Henrici* Regis ex forore Adala, mox *Robertus* Filius Regis, quem ante Regnum suscepit, & Comitem *Gloucestriae* fecerat. *Notabile fuit* (ut fertur) Certamen inter *Robertum* & *Stephanum*, dum æmula laude Virtutum inter se contenderent, quis eorum prior juraret, illo Privilegium filij, isto dignitatem Nepotis spectante. Ita Obstrictis omnibus Fide & Sacramento tunc quidem a quoque in sua discessum est.

Brompton tells (w) us the same thing, but with this Note, viz. That all were not of this Opinion, That a second Oath was taken; *Anno Dom. 1128*. Secundum quosdam Proceres Angliæ juraverunt coram Rege quod Superius dictum est, videlicet de Regno Angliæ ad Opus *Matildæ Imperatricis* filia suæ observando, si ipsa Patrem suum sine Liberis decedentem superviveret.

But those Authors who are of the contrary Opinion with *Brompton's* Quidam, are certainly not to be relied upon, since *Malmesburiensis*, lived in this King's Time, and was a Person, as *Bale* and *Pits* will tell You of an Honest and Good Life, and withall of great Industry in Search-

(w) In *Chron.* p. 1013. inter *Scriptores Angliæ antiquos* 10. Lond. Fol. 1652.

Of the Oath of Allegiance. 19

ing into the Bowells of Venerable Antiquity.

Things being thus carried on, now was the Time wherein the King was called into the Country of Bones: For in the Year of our Lord CLV. C. XXXV. being in *Normandy*, returning on a certain Day from Hunting, he ate some *Lampreys*, notwithstanding he had before always found them Prejudicial and Disagreeable to him, by which he received the Stroke of Deathe in the 35th Yeare and Third Moneth of his Reigne. So *Brompton* (x) Cum die quadam a venatu redijisset, apud Sanctum *Dionisium* in Silva *Leonum* Carnes comedit *Murænarum*, i. e. *Lampredarum*, quæ licet ei semper nocebant, eas tamen semper amabat. Cum autem Medicus hoc genus Comestionis Regi prohiberet, ille Salubri Consilio minime acquievit, *Secundum quod dicitur,*

Nititur in vetitum semper, cupimusq; negata.

Hæc igitur Comestio pessimi humoris illatrix & consimilium vehemens excitatrix Senile Corpus letaliter confrigerans, subitam & summam Perturbationem fecit. Contra quod ad impetum Materici gra-

(x) Col. 1630.

20 *Mr. Hearne's Vindication*

vissimæ dissolvendum Natura reluctans febrem acutam excitavit; qua prævalente, Rex Magnus cum jam Annis $\overline{\text{xxv}}$ & 3^{bus} mensibus regnasset, prima die Decembris Anno Domini supradicto vitam amisit hujus seculi Temporalem; *Hic autem Annus erat ab adventu Normanorum 69, & ab Adventu Britannorum 1245.*

Now was the Time for *England's* Weeping and Lamentation, having lost a King of such Rare Endowments; For notwithstanding some heape great Reproaches upon him, yet certaine it is he did not deserve them (allowing for the Infirmities of Men) being for his great Skill in *Martial* Affairs, and his discreet Government of his Kingdome, sufficiently celebrated both at home and abroad. Which procured these Verses upon him by one of that Age:

[orbis,
Rex *Henricus* obit, Decus olim, nunc Dolor
Numina flent Numen deperijsse suum.
Mercurius minor Eloquio, vi mentis Apollo,
Jupiter Imperio, Marsq; vigore gemit.
Anglia quæ cunis, quæ Sceptro Numinis hujus
Ardua splenduerat, jam tenebrosa ruit.
Hæc cum Rege suo, Normanniacum ducem arceat;
Nutrijt hæc puerum, perdidit illa virum.

Well

Of the Oath of Allegiance. 21

Well might *England* therefore Weep, for such a Losse, but more especially for the long Troubles now coming on.

For no sooner was the King Dead, but *Stephen* his Nephew, by his Sister (y), Earle of *Blois*, notwithstanding he had formerly taken an Oath of Allegiance to *Maud* and her Issue (for *Henry* had Designed her to Succeed him *Legitima & perenni Successione*, saith *Malmsbury* (z)) claimed the Kingdome, and by the Helpe of his Brother *Henry* Bishop of *Winchester*, was Crowned KING. And notwithstanding at first onely the Arch-Bishop of *Canterbury*, and two other Bishops swore to him, yet afterwards most of the Nobles went into, and tooke the Oath of Allegiance to Him, as their Sovereign Lord: Even *Robert* of *Gloucester*, King *Henry* the First's Natural Son, not standing out, but with this *Proviso* he Swore, viz. That his Honour and Covenant should be preserved.

Thus You have what I first proposed, namely, The *Historical Account* of *Stephen*'s coming to the Crowne: I have brought it from the Beginning of King *Henry*'s Issue, that so *Maud*'s Legitimacy

(y) Vid *Chron. Brompton*. Col. 1022. *Lond.* 1652. fol.

(z) *Malmsb. Hist. Novel.* Lib. 1. p. 100. 105. 2.

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to the Crowne might be the better Discerned. You see how forward the Nobles were in those Dayes to Submit to the Earle of *Blois* notwithstanding his having no immediate Right at present to the Crowne. I am nowe to shewe

Secondly That the Nobles thought themselves, yea even were, free from their former Oath, because the Affairs of the Nation at present required that a Submission should be paid to *Stephen*.

For afterwards (altho' this be something Forreign to the Business) upon the Agreement (*) between King *Stephen* and *Henry* the Second, *Maud* herself was set aside, and *Stephen* was to Continue in the Throne during his Life, after which the said *Henry* was to Succeede, to whome it was to continue in his Issue. So that if the *Common Good* in this, and other Oaths, be not especially to be considered, in this particular Business there is a *Gordian Knot* which our *Non-Jurors* will not be very able to untye, unless They do it by some indirect Means. For the Allegiance was transferred from the Right Heire to an Usurper, as *Stephen*

(a) Vid. Bp. *Stillington's Unreasonableness of a New-Separation.* p. 11.

must

Of the Oath of Allegiance. 23

must be owned to have been by those who deny that Allegiance can be transferred from the Right Heire. And they must continue Allegiance to the Usurper for his Life; which is repugnant to the Nature of our Constitution, if it be founded in a Lineal and Legal Succession. And againe, *Maud*, to whome they had sworn, is set aside, and the Reversion of the Crowne is Entailed on her Son, altho' she was living.

But more close to the Business, That the *Common Good* did require a Submission to *Stephen*, none can deny if they consider *First* That *Maud* was then in *France*, when *Stephen* was in *England*, and that thereby Opportunity was offered to *Stephen* of Doing an Extraordinary Mischief to the Land, provided he were not received, and that more especially, because his Brother was Bp of *Winchester* as was said.

Secondly If they consider that the Privileges of the Clergy had been infringed, and therefore that they required such a Sovereign as would Maintaine them to the utmost of his Abilities, as *Stephen* promised and did in a great Measure performe.

† Sic MS.

Not

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Not one of our *Non-Jurors* can be so bold as to affirme That the Whole Nation was so Wicked in those Dayes as to perjure themselves, without any Respect to the Reasonableness of what they did. For certaine it is that they knewe very well That the *Prime End* of an Oath is to be preferred to one which is *Inferior*. The *Prime End* of an Oath is The Good of the Persons concerned in it, and the *Inferior* one, The *Ascertaining* something to him to whom performed. Therefore (b) whatsoever the Intention of the Persons was, how Strict soever the Expressions may be, if the keeping of the Oath be really and truly inconsistent with the Welfare of a People, in subverting the Fundamental Laws which Support it; I do not see how such an Oath continues to Oblige: For, there is no Relation of Mankind one to another, but there is some Good Antecedent, which is the just Measure of that Obligation they stand in to each other. So that since the Common Good of the Nation, namely The Preservation of its Rights and Priviledges, &c. required a Submission to Stephen, the Nobles &c. might really think themselves, yea and even were, solved from their Antecedent Oaths to the Emperesse.

(b) *Stillingsfleet* *ibid.* p. 5.

But

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But further yet, The *Common Good* of the Nation was so much respected in this Submission to *Stephen*, that his wearing the Crowne During his Life, and then the Reversion of it to *Henry* the Second, was confirmed by Parliament (which will in some Measure confute those, who affirme the Parliament hath nothing to do in Matters of this Nature). For saith *Fortescue* (in a M.S. Treatise called, The Declaratyon made by *John Fortescue* Knight upon certein Writings sent out of *Scotland* agenst the Kyng's Title to hys Realme of *England*, imperfect in the *Bodleian* Librarye, *inter* M.S.S. *Digb. Num.* 198. but perfect in the *Cottonian*, some Notes whereof I have lying by me) King *Henry* the Third (so it is written in the M.S. for which I write *first*) had Issu a Doughter weddit to the Emperour of *Almayne* by whome She had Issue, but aftir his Decese she was weddid to the Erle of *Anjou* and had Issu by hym a Sonne aftirward callid *Henry Fitz Empresse*, and that Kyng died without any other Issue aftir whois Deth this Lond wold not suffir his Doughtir to reign upon hem by cause it was not enheritable by Women, and by the same Reason they wold not suffir hir Sonne to be their King, which by Force

D

of

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of that Eleccion was made ennoyncid King of *England*, and so reigned more then *xviii* Yere, and after that when the Sonnyes which the sayd *Stephyn* had were Dede, Accorde toke betweene hym and *Henry Fitz Empraffe* that the same *Henry* shuld after his Decease have the Kyngdome of *England* to hym and to his Heires Males for evirmore, of which Estate he was then made sure by Auctorite of Parliament by whiche Title he and his Issue have reigned in this Lond alway Sithen.

This is all which I have by me out of the said Treatise in relation to *Stephen*; I could wish I had the remainder, which is in the *Cottonian* Librarye, for the *Bodleian* Copy hath not a Word of what I have just now Transcribed, nor of several things Passing before this Relation of *Stephen's* Coming to the Crowne &c. breaking of (I knowe not for what Reason) abruptly with these Words by the forsaide judgement of *Genesis* may not be denyed. For— in the 6. intituled— A Woman ys under the Power of Man wyle she ys under the Byshop of *Rome*.

But Bishop *Stillingfleet* (c) quotes this MS. (for this he must mean by his Words— in a Manuscript Discourse about the Title of

(c) Ubi Supra p. 11.

the

Of the Oath of Allegiance. 17

the House of Lancaster, unless it be the Latyn Booke, which the foresaid Declaration so much mentions, which probably it may, because the Bp. quotes the Words in Latine once, which notwithstanding contained much of that which is the Subject of the Declaration, being the Cause of it) Thus: Fortescue saith, that Henry the Second was Crowned King in the Life of his Mother (who lived to the 13th of Henry the Second) by the General Consent of the Kingdome; and immediately before: The Right of Henry the Second was Declared Communi Consensu Procerum & Communitatis Regni Angliæ.

Indeed Rad. de Diceto (d) who Lived nearer that Time, mentions nothing of the Parliament, but then Fortescue appeals not only to the Chronicles, but to the Proceedings of Parliament, for what he alledges (*).

And Matt. Westminster (†) and Paris †, Persons of Great Authority, say That this was done Communi Consensu Procerum & Communitatis Regni Angliæ.

Gervase (*), That the Great Men were summoned to perfect the Agreement, by

(d) Rad. de Diceto. A. D. 1153. (e) Stillingfleet.
Ibid. (f) Matt. West. A. D. 1153. † Matt. Paris.
eod. an. (g) Gervas. A. D. 1153.

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giving their Assent to it, and confirming it by their Oaths.

Gul. Nubrigensis ^(^h), That the *Bonum Publicum* was the Foundation of the Agreement.

And, to name no more, *Matt. Westm.* ^(ⁱ) again, That the King and the Lords did all sweare to it, and a Solemn Charter was made to it, and kept in a most sure Place.

From what hath been said, it seems nothing is more certaine than that the *Bonum Publicum* was the Foundation of what was done in *England* from the first Usurpation of *Stephen* till the time wherein the Crowne was returned againe to Prince *Henry*. And so I have given Satisfaction I hope in the two Things proposed. But I shall nevertheless stay upon this Matter somewhat longer, by shewing that notwithstanding the *Bonum Publicum* did not require their Allegiance to *Stephen*, yet they had good Reason to think they might safely do it. For

First It is said by *Rad. de Diceto* ^(^k) That *Hugh Bigod* Sware, That King

(^h) *Gul. Neuburg. L. 1. c. 30.* (ⁱ) *Matt. Westm. S. 1153.* (^k) *Radulphus de Diceto Abbrev. Chronicor. Col. 505. Matt. Par. Hist. Angl. p. 71.*

Of the Oath of Allegiance. 29

Henry the First, on his Death-Bed, Disinherited his Daughrer, and made Stephen his Heire. Hugo *præterea* Bigot, *Seneschallus Regis*, *præstato Juramento*, *probavit coram Archiepiscopo Cantuariensi qd. dum Rex ageret in Extremis, Imperatricem exheredavit, & Stephanum igitur constituit successorem.* Which if true, shews how Erroneously they Argue who would have us Discharged by K. James the First, before we Sware to King W.

Secondly The Lords and others of the Realme thought that their Oath was not Obligatory, because taken to a Woman. The Opinion was, saith *Radulphus de Diceto* (1) *Fore nimis turpe, si tot Nobiles, fœminæ subderentur*, That it would be an Action altogether Base, and unbecoming Men professing Generosity and the Good of the Realme, to suffer any such thing as Submission to one of the weakest Sex.

Good Reason there was why they should deny Obedience to a Woman; For

(1) *Radulph. de Diceto Abbrev. Chronic. Col. 505. Matt. Par. Hist. Angl. p. 71. Will. Pryn's Collections Vol. 1. p. 490. Stillingfleet, loco citato.*

First,

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First A Woman is of such an Infirme Constitution, and Fickle Temper, in Respect of Man, That nothing but Fears and Jealousies must be bred, generally speaking, whilst she bears sway, from whence Anarchy and Confusion, and consequently Destruction to the National Customs will followe of Course. This I say not according to my owne Opinion, but the Sentiments of those more Ancient Times.

Secondly Man is by Nature above Woman, and therefore has more Right to Governe, and so whatsoever he doth, provided it be agreeable to Reason, ought to be Submitted to by the Woman as a Servant under him. And further presently after the Fall, God told the Woman That she should be in Subjection to Man, as her Sovereigne, to whome She ought to pay all Due Deference and Ready Submission. And so writes *Fortescue*, both in the Words which I have above Transcribed, and in these (m): No Woman ought sovereignly or supremely to Reigne upon Man. Whiche Matter ys provyd

(m) In MS. supra citato, in § cui tit. *A Woman ys under the Power of Man, &c.* ut supra descripsi.

by

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by the Jugement that God gave upon the fyrst Woman when She had Synned, saing to her thes Words (*eris sub potestate viri, & ipse dominabitur tui*) which be in the Boke of *Genesis* the thred Chapyter, and bethe suche in Englishe: Thou shalt be under the Power of Man, and he shall be thy Lord. Which Words spokyn to that Woman whas spoken to all the kynd of Women, as the Words though spoken by God to the fyrst Man, whas spoken to all Mankynd. Now notwithstanding Sir *John* tooke not these Words in such an Extensive Sense, as to suppose That a Woman is under the Power of every Man, but onely that She is under the Power of some particular Man; Namely the Pope, which according to Sir *John's* Sense is enough: (For saith he, Our Lord said not in hys forsaide Jugement that a Woman shuld be under the Power and Lordshype of all Men, which is untrew yf she be under the Power and Lordshype of any Man. For Logycions say, *Quod Propositio indefinita est vera si in aliquo supposito illa sit vera*, And by that reason she ys under the Power and Lordshype of Man yf in any kynd of Subjectyon she be under the Power and Lordshype of Man. Wherefore the forsaide

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said Text of *Genesis* or any thing deduced thereof may not prove that a Woman may not Reign in a Kingdome of whiche the King hathe no Sovereigne in Temporalities sithen she abideth always Subyet to the Pope.) I say notwithstanding Sir *John* was not of such Opinion, yet I see no reason why they might not be of it in King *Stephen's* time, when Learning flourished not so much as in *Fortescue's* time; nor were there so good Conveniences for the Propagation of it.

But *Thirdly* They might think that the Oath was not so Strong which they had taken to *Maud*, as not to be broken without Perjury, since they had seen such Changes already in Successions as did Demonstrate That the Lawfull Heire was not always to be received, if one that was farther removed might be received with greater Safety: For, as was said above, The *Common Good* is what ought primarily to be considered in Oaths, and that ought to Overballance every thing else.

The setting aside the Lawfull Heire, and Admitting the Unlawfull one in his roome, shall be here illustrated by some Examples. Which notwithstanding they may seeme to make against what I said above,

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above, *viz.* That I would prove that the Nobles &c. had reason to think themselves absolved from their Oath to *Maud*, the *Common Good* being set aside; yet to the unprejudiced they will seeme otherwise: because there the *Common Good* was only Supposed, whereas here several other things were the Causes of the Rejection, altho' the *Common Good* was generally the *Primary* one, and that only I insist upon here, because most agreeable to my purpose, which is to shewe That Allegiance ought to be paid to his Present Majesty, because the *Common* or *Public Good* of the Nation requires it.

That *Prioritie of Birth* hath the Lawfull Title to Dominion, seemeth to be a Truth so plaine, that none of any Skill or Judgment will deny: And yet that the Younger have oftentimes been received before the Elder Sonnes is Warranted by History both *Divine* and *Prophane*.

I.

Thus *David* preferred *Solomon* before *Adonia* (n): *Even as I sware unto thee [Bathsheba] by the Lord God of Israel, saying, assuredly Solomon thy Sonne shall*

(n) 3 Kings 1. 30.

E

Reign

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Reign after me, and he shall sit upon my Throne in my Stead; even so will I certainly do this Day.—(o) Let Zadok the Priest, and Nathan the Prophet anoint him there [at Gihon] King over Israel. And (p) Then sat Solomon upon the Throne of David his Father, and his Kingdom was Establish'd greatly; But yet Adonia the Eldest Sonne was then Living.

II.

And Rehoboam Son of Solomon appointed the Youngest of his Sonnes to Succeed him. So saith the Text (q): Rehoboam made Abijah the Son of Maachah the Chief to be Ruler among his Brethren: for he thought to make him King.

III.

And what do we gather from all the Accidents which befell the Righteous Joseph, unless it be that God is pleased That the Younger should oftentimes Rule over the Elder, notwithstanding he cannot claime a Legality of Title? Rachel we know was Barren for some time by the

(o) Ver. 34. (p) Ch. II. ver. 12. (q) 2 Paralipom. XI. 22.

Of the Oath of Allegiance. 35

Pleasure of the Lord (altho' she was most beautifull, and *Jacob* had served Fourteen Years for her (r) because *Leah* was hated, who yet received at first most honour from God, her Womb being opened, and she bare four Children (s): But at length the Lord looked upon *Rachel*, and she also conceived and bare *Joseph* (t) This was the first Favour of the Lord shewed in an Eminent manner. But afterwards greater Favours appeared: For notwithstanding he was the Eleventh Son, and therefore according to the Common Course of Things could not expect so high Honours as his Elder Brethren, yet the Lord was always with him, and made him to prosper and be a Real Sovereign to his Brethren: For *First* his Dreame concerning the Sheaves, in which his Brethren's Sheaves fell downe, and made Obeisance to his Sheafe (u) shewed God had chosen him to be Superior to the Rest. *Secondly* So did also the Dreame of the Sun (w) Moon and Starrs submitting themselves to him. *Thirdly* But this more especially was manifested after he was sold into *Egypt* by them (x), out of

(r) *Gen.* XXIX. (s) *Cap. id. v.* 31, 32, 33, 34, 35.
 (t) *Cap. XXX. v.* 24. (u) *Cap. XXXVII. v.* 5, &c.
 (w) *Cap. id. v.* 9. (x) *Cap. id. v.* 28.

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the Hatred they bore him: For *First* he was favoured of *Potiphar* an Officer of *Pharaoh's* and Captain of the Guard, who bought him of the *Ishmaelites* (y) by whome he was made Overseer of his House and all that he had (z); A most high Honour indeed. But greater yet: For, saith the Text (a), *It came to passe from that Time that he had made him Overseer in his House, and over all that he had, that the Lord blessed the Egyptian's House for Joseph's Sake: and the Blessing of the Lord was upon all that he had, in the House, and in the Field, &c.* And notwithstanding afterwards through false Accusation (b) he was cast into Prison, yet the Lord's Favour was still more remarkable towards him (c), and afterwards *Pharaoh*, because he had interpreted his Dreams (d) which did betoken Famine after VII. Years, set him over all Egypt, *because there was none so discreet and wise as he was* (e), and he was adored and worshipped almost like a God, so great Estimation had he. And he gathered Provision over all the Land against

(y) Cap. XXXIX. v. 1. (z) Ver. 4. (a) Ver. 5.
 (b) Cap. id. v. 14, 15, 17, 18, 19, 20. (c) Ver. 21, 22, 23. (d) Vid. Cap. XLI. (e) Cap. Ejusd. Ver. 39, &c.

the

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the Years of Famine, at which Time, marke what Power he had over his Brethren; For, as You may read in Chapters XLII, and XLIII, XLIV, *Jacob* sent his Sonnes into *Egypt*, there being a sore Famine in *Canaan*, at several Times to buy Corne of *Joseph*, they not knowing that he was their Brother whome they had Sold, and they paid him the greatest Reverence; And in the last Mission he revealed himself (f), and sent for his Father into *Egypt*, who came with all his Household, and received the Greatest Honours from *Pharaoh* for *Joseph's* Sake, Who was ever after Adored as King, and at length Died (g) being CX Tears Old, and they embalmed him, and he was buried in a Coffin in *Egypt*.

I have insisted the longer upon this Story of *Joseph*, because of the Remarkable Manifestation of Providence in every particular of it, and therefore may have probably some Influence upon the Minds of those who at present deny the Interposition of Providence in the bringing over our Gracious Sovereign His present Majesty whome God long Preserve, and setting him upon the Throne; Affirming That Providence onely permitts such Do-

(f) Cap. XLV. (g) Gen. L. v. ult.

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ings, but is not pleased with them; These Men for sooth, think That God is more pleased with Romish Superstitions and Tyrannyes, than the Primitive Worship, and the Subjects Enjoyment of their Liberties.

IV.

King *William* surnamed the *Conqueror* of this Realme, drawing near his End, beganne to think of one to Succeed him, and thereupon Pitched upon his Son *William*, notwithstanding *Robert* his Eldest Sonne, was alive; and thereupon, being in *Normandy*, commended him with Letters under his owne Seale to *Lanfranke* then Arch-Bp. of *Canterbury*: a Man highly Esteemed in Forreign Countries, and in *England* in such Admiration That his Authority was Absolute. In which Letters the King Expressed his Good Affection to his Son *William*, and Extolled his Virtues and Loyalty to him, and said that he was every ways fit for Government. And moreover he had also Respect to the Good of the Realme, for knowing That his Son *Robert*, being of a Flexible and Mild Disposition, was more fit to Governe a People well Settled in
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Of the Oath of Allegiance. 39

Affection, than such as had been newly Conquered, and not yet weaned from their Ancient Customs, he thought his Son *William* might better Succeed, *jure in hoc Casu non obstante*, being of a Fierce and Fiery Temper, and made for a Curb to the Irregular and Rebellious. With this Letter therefore he Posted away, and in a short Time arrived at the Port called *Whitesand*, where he had the first Intelligence of the Decease of his Father, which made him make the more hast to the Arch-Bp. to whome he delivered the said Letters, and was forthwith Declared King, upon the 9th of Sept. (h) *Ao. Gratia* *CLV: LXXXVII.* and upon the 1st of Oct. next Ensueing was by the same *Lanfranke*, with all the Ceremonies and Solemnities pertaining to that Action, Crowned at *Westminster*.

V.

The said *William* dying by the Force of an Arrow, Shott by Sir *Walter Tyrrel* at a Dear in the New-Forrest August the 2^d in the 13th Year of his Reigne, *Robert* the Eldest Brother was still kept from the

(h) Vid. Sir *John Hayward's* Hist. of the 3 *Norman Kings*, p. 141.

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Crowne, notwithstanding it was his Right not onely by Birth, but by Expresse Covenant made between him and his Brother *William* upon Oath (i), and his Younger Brother *Henry* apprehending the Opportunitie of the Duke's Absence, (he being then in *Palestina* Warring against the *Saracens*) forthwith seized upon the Treasure of the King, and thereby also upon his State, and so was Crowned at *Westminster* upon the Second Day of *August*, the Day of *William's* Death in the Year 1100. by *Maurice* Bp. of *London*; because *Anselme* Arch-Bishop of *Canterburie* was then in Exile.

In giving these Examples, I would not be thought to be of Opinion That the Younger Sons may be preferred always before the Elder, but onely when it is more Safe, and the *Common Good* so requires it. And so those Lawyers are to be interpreted who Affirme That a King may Determine in his Life, which of his Sonnes shall Reign after him. Namely this must be Understood when a State is newly raised to the Title of a Kingdome, or when by Conquest, Usurpation, or some other Meanes of Change, the Government thereof is Transferred from one

(i) Ibid. p. 223.

Of the Oath of Allegiance. 41

Stemme to another : For then there being no Certaine Lawe to be followed , the Right seems to Depend upon the Disposition of the Prince.

As well *Hen.* therefore as *William* were præferred to *Robert* because there was not so much Danger from them as from *Robert.* For

First, as to *William*, The Right of Succession to the Crowne of England being not at that Time so surely Settled, as it hath been since; but having Waved in long Uncertaintie; *first*, in the *Heptarchie* of the *Saxons* and *Englisb*, and afterwards betweene the *Englisb* and *Danes*, and was then newly possessed by the Sword, *William* was more fit (as is manifest from what I said above) for settling Affairs, and consequently for insuring the Kingdome to the *Normane* Line than *Robert.*

Secondly *Robert* had given just Offence, and therefore might be put by, having borne Arms against his Father.

Secondly, as to *Henry*,

First, The same reasons hold with Respect to him as I gave for *William.*

Secondly, *Robert* was borne before, *Henry* after the Conqueror was King, and

F in

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in this Case there are Learned and Great Judges who stand in Favour of Henry, as will be somewhat clear by and by.

VI.

Herodotus gives us an Example altogether fit for my Purpose (*) in these Words:

Επὶ δὲ ἡ ἀγχιλή ἀπικέτο πρὸς τῆς μάχης τῆς ἐν Μαραθῶνι γενομένης πρὸς βασιλεία Δαρείων τὴν Τραπεως, καὶ πρὸς μεγάλως κεχαρισμένον τοῖσι Ἀθηναίοις διὰ τὴν εἰς Σάρδεις ἐσβολὴν, καὶ δὴ καὶ τότε πολλῶν τε δεινότητων ἐπέει, καὶ μᾶλλον ὥρμητο στρατεύεσθαι ὅτι τὴν Ἑλλάδα καὶ αὐτὴν μὲν ἐπαγγέλλετο, πέμπων ἀγέλας κατὰ πόλεις, ἐπιμαΐειν στρατὸν, πολλῶν τε πολλῶν ἐπιπλοῶν ἐκείνοις ἢ πρότερον παρέχειν, καὶ νέας τε καὶ ἵππους, καὶ ὄπλον, καὶ πλοῖα· τῶν δὲ πρὸς τὴν Ἀσίαν ἐδονέτο πᾶσι ὅτι τρεῖς ἔπαι. Καταλερομένων δὲ τῶν ἀρίστων ὡς ὅτι τὴν Ἑλλάδα στρατευομένων, καὶ πρὸς σκευαζομένων, πρὸς τὴν Ἰταλίαν ὑπὸ Καμβύσῳ δαλωθέντες, ἀπέστησαν δὲ Περσέων· ἐν ταῦτα δὴ καὶ μᾶλλον ὥρμητο ἐπὶ ἀμφοτέρω στρατεύεσθαι. Σπληνόμενος δὲ Δαρείος ἐπὶ Ἀιγύπτου καὶ Ἀθήνας, τὴν παρθένον αὐτὴν εἰς εἰς ἐγένετο μεγάλη πρὸς τὴν Ἀγριμονίης, ὡς δὲ μιν δότο δέξαντα βασιλῆα κατὰ τὴν Περσέων νόμον, ἔτα στρατεύεσθαι· ἔπειτα γὰρ Δαρείος καὶ πρότερον ἢ βασιλεύσας γεγενόπης τρεῖς παῖδες ὅς τε πρότερος γυναῖκός Γορύνειος θυγατρὸς· καὶ βασιλεύσας, ἐξ Ἀπίου τὴν Κύρα, ἔταροι τέσσαρες. τῶν μὲν δὲ πρότερον ἐπέσβεσε Ἀρταξέρξης, τῶν δὲ

(k) in Polymnia, in principio.

ὅτι

Of the Oath of Allegiance. 43

Ἰππυνομένων, Ξέρξης· ὄντες δὲ μητρὸς καὶ πατρὸς,
ἐκείνου· ὁ μὲν Ἀρταβάζανης, κατὰ πρεσβυτά-
τος τε εἴη πάντος ἔργου, καὶ ὅτι νομιζόμενοι εἴη πατρὸς
πάντων ἀνθρώπων, τὸ πρεσβυτάτην τὴν ἀρχὴν ἔχον.
Ξέρξης δὲ, ὡς Ἀπόλλωνος τε παῖς εἴη καὶ Κύρου θυγα-
τρός, καὶ ὅτι Κύρος εἴη οὐκιστάμενος τοῖσι Πέρσῃσι τὴν
ἐλευθερίαν. Δαρεῖος δὲ οὐκ ἀποδεικνυμένον καὶ γινώ-
μιενον, ἐτύγχανε κατὰ τούτῳ τύπτει καὶ Δημάρετος
ὁ Ἀρίωνος ἀναβέβηκώς ἐς Σάου, ἐστρημένος τε καὶ
ἐν Σπάρτῃ Βασιλείης, καὶ Φυγὴν Ἰππιδάων ἐαυτῷ ὡς
Λακεδαιμόνος ἔτος ὁ νῆρ πρῶτος τὸ Δαρεῖον παῖ-
δων τὴν διαφορὴν, ἐλθὼν, ὡς ἡ Φάτις μὲν ἔχει,
Ξέρξης συνεβέβηκε λέγειν πρὸς τοῖσι ἐλεγε ἔπειτα, ὡς
αὐτὸς μὲν γένοιτο Δαρεῖος ἢ βασιλεύοντι, καὶ ἔχοντι
τὸ Περσῶν κράτος, Ἀρταβάζανης δὲ, ἐπὶ ἰδιωτῇ εἶσι-
τι Δαρεῖον· ἔκων ἔτι εἰκὸς εἴη ἔτι δίκαιον, ἀλλὸν τι-
να τὸ γένος ἔχειν πρὸ ἐαυτοῦ· ἐπείγε καὶ ἐν Σπάρτῃ,
ἔφη ὁ Δημάρετος ὑποτιθέμενος, ἔγωγε νομιζέμεθα, μὴ οἱ
μὲν προγεγονότες εἴσι πρὶν ἢ τὸ πατέρα σφείων Βασι-
λεύσῃ, ὁ δὲ βασιλεύοντι ὀφείλοντες Ἰππυνομένη, ἔτι Ἰπ-
πυνομένους τὴν ἐκδέχιν τὴν Βασιλείης γένεσθαι· χρησι-
μὲν δὲ Ξέρξεω τῇ Δημαρήτῃ ὑποθήκη, γὰρ ὁ Δα-
ρεῖος ὡς λέγει δίκαιον, Βασιλεῖά μιν ἀπέδεξε.
Which in *English* runnes thus:

Now when News was brought to Da-
rius the Sonne of Hyftaspes of the Fight at
Marathon, his former Anger Conceived
against the Athenians because they had
invaded Sardis was not a little Augmented,
and therefore was the more Propense to

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make Warre upon Greece: And he gave out Declarations of his Intentions, and therefore desired That all Cities in his Territories would make greater Preparations than before they had done. Whilst these things are Carrying on, Asia received Continual *Exagitations* for the Space of 3 Years. Whilst therefore the most Valiant and Skillful Soldiers are Picking out, and Greatest Preparations making, in the 4th Yeare the *Egyptians* who had been Subdued by *Cambyses*, fell from the *Persians*; Which made *Darius* make the Greater Celerity in his Expedition both against the *Egyptians* and *Athenians*. But whilst he is busy in these things, a great Dissension arose amongst his Children about the *Succession*: because by the Lawes of *Persia*, the King might not enter into Enterprize of Armes, before he had Declared his Successor. Now *Darius* had three Children before he was King, by his first Wife the Daughter of *Gobrys*. After he was King he had other foure, by *Atossa* the Daughter of *Cyrus*. *Artabazanes* was Eldest of the first sort; *Xerxes* of the second. And being not borne of the same Mother, they Contended together for the Empire. *Artabazanes* alleged that he was the Eldest of
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all the King's Sonnes, and that it was a Custome among all Nations, That in Principalities the Eldest should succeed. *Xerxes*, that he was begotten of *Atossa* the Daughter of *Cyrus* by whose Valour the *Persians* had obtained their Empire. Before *Darius* had given Sentence, *Demaratus* the Sonne of *Aristo*, being cast out of the Kingdome of *Sparta*, and flying from Lacedæmon, came to Susa. This Man heareing of the Controversie betweene the Sonnes of *Darius*, came (as the Story goes) to *Xerxes*, and advised him to add this to his former Plea, namely that he was borne first to *Darius* after he had obtained the Kingdome and Empire of the *Persians*: but that *Artabazanes* was borne to him whilst he lived a Private Life: And that therefore neither Equity nor Justice would permitt That any other should obtaine the Honour of Reigning before him; And that it was the Custome of *Sparta*, That if a Man had a Sonne in private Estate, and afterwards another when he was King, this last should succeed in his Kingdome. *Darius* heareing this, and thinking nothing could be more agreeable to Reason, rejected *Artabazanes*, and gave Judgement for *Xerxes*.

This

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This Example if Weighed in the Balance of Reason and Justice, will appeare to any Man of Sense so Pertinent to the Purpose in hand, that it makes altogether for what I alledge, That for the *Common Good*, the Direct Order of Succession may be Changed. For even *Darius* did this Rather for this End, than out of Opinion that *Xerxes* was the *Rightfull* Heir.

VII.

After *Alexandra*, the Kingdome of *Judea* was obtained by her Eldest Sonne *Hyrcanus*; in the 3^d Year of the *CLXXVII. Olympiad* ⁽¹⁾, *Q. Hortensius* and *Q. Metellus* ^(m), being Consuls. His Mother having in her Life-time Committed it to him. But her Younger Sonne *Aristobulus* was the most strong, and of a Fiery Temper ⁽ⁿ⁾. And therefore the same *Josephus* tells us ^(o) That *Hyrcanus*, three Moneths after the Decease of *Alexandra* his Mother, was Expelled out of his Kingdome by him. *Hyrcanus* being very much Displeased with this Injustice, fought forth with his Brother neare unto Jericho:

(1) *Usserii Annales* p. 423. Sub an. Per. Jul. 4644.

(m) *Josephi Antiq. Lib. 14. c. 1.* (n) *Idem De Bello Judaic. L. 1. c. 4.* (o) *Lib. 15. Ant. c. 9.*

where

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where a great number of *Hircanus's* Followers submitted themselves of their owne Accord to *Aristobulus*. Through which Accident *Hircanus* was forced to flie to the Fortrefs of the Higher City. The rest of the Faction, for feare of his Brother who had gotten the Victorie, retired themselves within the Præcinets of the Temple, where they were besieged and taken. After which, a Peace was Treated of betwixt both the Brethren, and their Difference was Concluded in this Manner, that *Hircanus* should passe the rest of his Life without meddling with State Affairs, and *Aristobulus* should Reigne. This League was Ratified betweene them in the Temple, and confirmed with Oaths, Conjunction of Hands and Embraces, in the Sight of all the People: Which being finished, *Aristobulus* retired himself into the Palace, and *Hircanus* to *Aristobulus's* Lodging, to lead a Private and Quiet Life (P). The maine Reason of *Hircanus's* Submission of himself to his Brother *Aristobulus*, and Putting, the Government into his hands, was, as You may read in *Josephus* afterwards, The Common Good, for had he held out against him nothing but Slaughter and Famine would have im-

(P) Lib. 14. Ant. c. 1.

mediately

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mediately followed. I might give the Story at length, but 'twould be too Tedi-ous, and my other Business calls me away.

VIII.

Lewis borne after his Father was Duke of Milane, was preferred in Succession before his Brother *Galeace*, who was borne before (q).

But You will say that these Examples are not very Material, because they do not shew that the Rightfull Heire hath been turned out, since the Youngest Sonne if borne after his Father hath Obtained the Kingdome, and his Elder Brethren borne before, is the True and Legitimate Heire to the Crowne. And that this is confirmed by many Grounds of the *Imperial* or *Civil* Lawe (r): As that Sonnes borne after their Father is Advanced to a Dignitie, doe hold Certaine Privileges, which Sonnes formerly borne do not enjoy: That these Children which are borne after a Person is freed from any infamous or servile Condition, doe participate onely of that Condition, and not they

(q) *Guice*. Lib. 1. *Blond*. Decad. 2. Lib. 2.

(r) Vid. *Hayward's Hist. of the 3. Norman Kin.* p 226.
who

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who were borne before. That if a Man taketh a Wife in the Province wherein he holdeth Office, the Marriage is good, if after the Time his Office shall expire, they Continue in the same Consent: but so that the Children borne before, shall not be thereby held for Legitimate. That those Children which are borne after their Father is honoured with the Title of *Clarissimus*, doe enjoy the Rights due unto that Degree of Dignitie, and not they who were borne before. That as a Sonne borne after the Father hath lost his Kingdome, is not Esteemed the Sonne of a King: So neither he that is borne before the Father be King.

But these Passages, and the like, Commonly Alledged for Probation of the Younger Sonne's Right to the Kingdome, provided he was borne after his Father were King, and his Brother, or Brothers borne before, are little pertinent to the purpose, because they concern not any Univerfall Right of Inheritance, which is due unto Children after the Death of their Parents; but certain Particular Privileges and Rights Attributed unto them whilst their Parents were living, which, for the most part, are Arbitrarie

G

and

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and Mutable, as Depending upon the Pleasure of the Prince.

And notwithstanding many Interpreters of both Lawes are of the Contrary Opinion, i. e. think them of great weight in this Particular, and therefore give their Judgment for the Younger Brother, if borne first after his Father had the Empire; yet there are others of more solid Judgment, who thinke the Elder Sonne in every Case by all true grounds of Lawe ought to succeed, unlesse there be any Expresse Lawe of the State to the Contrarie. For

First: This is the Nature of all Successions by Way of Inheritance: For, if a Father purchase Lands, Leases, Cattell or other Goods, the Inheritance shall be transmitted to his Eldest Sonne, although borne before the Purchase. Likewise, if a Father be advanced to any Title of Honour, as Duke, Earle, Marquesse, &c. the Eldest Sonne is to succeed in the same, altho' he was borne before the Advancement. And therefore seeing this is the General Rule in all other Inheritable Successions, and there is no Reason of Singularitie in a Kingdome; it followeth, that in like Case the Succession of a Kingdome

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dom should also Descend to the First-borne, notwithstanding he were borne before the Kingdome was atchieved by his Father.

Secondly, The Sonne who was borne before his Father was a King had once a Right to succeed in his Kingdome; because had not another Sonne beene borne, without Doubt he should have succeeded. This being so, I cannot, for my Life, perceive how his Right should be utterly taken away by this Younger Sonne's Birth: For there is great Difference between *Diminution* and *Extinction*. I don't Deny but the Multiplicity of Children doth Diminish the Right of the Elder Sonne in Respect of the Goods, which are to be distributed amongst all; But that this Distribution should Infringe the Right of the Elder in Point of Succession, is such a Piece of Absurdity, as I cannot find reconciled by any Philosophy I have read. And he must needs invert the Common Notion of Things who will from hence gather That an *External* and *Casual*, i. e. an *Independent* Accident is in It self sufficient to Eradicate and Extinguish the Right of the Subject. So that it is plaine that the Distribution of the

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Goods amongst several Children does not Extinguish the Right of the Elder. Nor Secondly can it be Diminished in those Things which are not of Nature to be either Valued or Divided (of which sort a Kingdome is the Chief) but do pass intirely unto one. For the Right of Blood which onely is Regarded in Lawfull Successions, is Acquired and Held from the Nativitie of the Childe, and doth not beginne at the Father's Death; at which Time the Inheritance doth fall.

Thirdly and Lastly, If it be true That he that is borne first after the Acquisition of a Kingdome, should succeed; then it is also true in Degrees of Consanguinity more Remote: And Consequently if the King dies without Issue after he had obtained this Dignity, then would one that was related to him, altho' perhaps several Degrees off, succeed him, because Borne after he was King, and so his owne Sonne borne before he was a Sovereign will be excluded. And whether in this Case there would not be the greatest Injustice Acted imaginable, I appeal to any Man living. Let even the Heathens themselves Judge here. Let us read over all their *Political* Injunctions and Lawes, and

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and see whether they ever favoured such Kinds of Action as this. And what do *Christian Politicians* teach us worse Rules than *Heathen*? shall God's Revelation be so abused, as that our Reason and Understanding should be rather Obscured than Illuminated by it?

Nothing is therefore more agreeable to Reason than that when the Elder Sonnes have been Excluded it hath been for other Reasons, but Principally for the *Common Good*.

Fourthly, They might thinke themselves with a great Deale of Reason freed from the Obligation of their Oath, because the Pope had given them an Absolution, as You may see in the *Chronicles*. *Cropeared Prynne* will satisfy You Sufficiently in his Voluminous Collections.

No one that considers the great Authority of the Pope, and the Feare which was had of him, can thinke this Reason as infirme.

Once there was a Time when the Popes claimed no such Power as now they do, of Deposing Princes at their Pleasure, and Exercising both *Ecclesiastical* and *Temporal* Jurisdiction intirely themselves, as if Kings were not of Divine Authority.

They

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They then considered That a *Regale Sacerdotium* is really and truly accomplished, when both Priest and King act together in bringing their Subjects to a Knowledge of their Duty, and Directing them in the Path to Heaven.

And therefore it is that we see in the *Imperial Law* the Authoritie of the Prince and Priest are made Equal, when it is Decreed (s) *That no man may remove a Body out of a Monument in the Church, without a Decree of the Priest or Commandment of the Prince.*

And indeed, in short, the Authoritie of the Emperors in Disposing of such Matters, and Direction in Matters of Doctrine, together with the Bishops, appeares abundantly out of all their Ancient Laws, and out of the Rescripts to Popes, and the Epistles of the Popes to them.

But scarce in any one thing doth the Care of Princes for the Welfare and Peace of the Church, and the Obsequiousness of Popes to them appeare more, than from the Letter of *Pelagius* the first (who was little above 550 Years from Christ) to *Childebert* King of France, in these Words (r): We must endeavour, for the

(s) Dig. Lib. 11. Tit. 7. Le. 8. Offa.

(r) *Pelagius* 1. Epist. 16. and 25. n. 1.

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taking away of all Scandal of Suspicion, to present the Obsequiousness of our Confession, unto Kings, to whom the Holy Scriptures command even us to be Subject. For *Ruffinus*, Your Excellencies Ambassadour, asked from us Confidently, as became him, that either we should signifie to You, That we did observe in all Points the Faith, which *Leo* had Described, or send a Confession of our Faith in our own Words.

And according to this Great Authority and Respect, they received high Titles. The Lawe stiles the Emperor *Sanctissimum Imperatorem* (u). And his Privileges *Divinas Indulgentias* (w). *Iustinian* in the Inscription of one of his owne Lawes, inserts amongst his owne Titles, *Semper adorandus Augustus* (x). And *Theodosius* and *Valentinian* in Favour of the *Christian Religion* (y), *Ut sciant omnes, quantum Nostra Divinitas aversatur Nestorium*. And it would be Endlesse to Enumerate all. In a Word, They are such as Discover that Emperors and Kings are of Divine Original, and therefore

(u) Dig. Li. 3. Tit. 1. L. 87. Sect. *Imperator*.

(w) Cod. Li. 1. Tit. 1. L. 1. Tit. 15. L. 3.

(x) Cod. L. 1. Ti. 15. L. 3.

(y) Cod. L. 1. Tit. 1. L. 3.

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cannot be Deposed *pro Arbitrio* unless they turn Enemies to God, and their Countrey, as Certainly Tyrants do.

But afterwards the Popes forsooke that Respect they formerly paid to them, and Ingrossed both *Ecclesiastical* and *Civil* Authority to themselves.

This Usurpation happened *first* when the *Lombards* and other Barbarous People Invading *Italie* had like to have taken away all the Pope's Temporal Estate: For then he sending to the Easterne Emperours for Relief; when he found his Intreaties were in vaine, he applyed himself to the *French*. *Stephen* the 3^d especially made great Lamentations to *Pipin* and *Carloman* (2); as likewise did *Stephen* the 4th to the Sonnes of these Princes, whom at length he obtained to hearken to him. They therefore with their Power delivered *Italy* from the Infestation of the *Lombards*, and thereby the Pope beganne to cheare up, and to reprehend with some Bitterness, the Eastern Emperours; and not only reprehended them, but even Translated the Empire to the *French* for their good Service to him; And by this Means wanne so upon them that at length

(2) Vid. Dr. Donne's *Pseudomartyr*. Lond. 1610. fol. in Pag. 58.

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he gain'd sole Authority both in *Spiritual* and *Temporal* Affairs, and they durst not contradict him. Hence the Original of Deposing Kings at Pleasure. Now were continual Thunderbolts Issued forth against such as Gain'd his Power and Authority; but none more Absolute herein than *Gregory* the 7th. concerning whome alone I shall note some Things relating hereto, as being more Directly to my Purpose, he living but little before King *Stephen's* Time.

This Pope therefore thought himself so much above all his Predecessors, or any other Bp. in the World, that he Augmented the Usurpations which had been before his Time to such a Degree; that none but Sonnes of *Belial* can think becoming a Man professing Knowledge, and Worship of the only true God, much less one that pretends himself to be the greatest Friend to Christ.

Before his Appearing, by Excommunication was intended onely *Spiritual Punishment*, unless some of the Popes made it reach further, as You may read in the foresaid Dr *Donne*: And this Kind of Excommunication is now call'd *Excommunicatio Major*, and in the Canons *Anathema Maranatha*, the Denouncing of

H which,

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which, and the Absolving from it, was Acted with many Formalities, and Solemnities, and had many Ingredients, of Burning Tapers, and Diverse Others, to which none could be Subjected without the Knowledge of the Arch-Bp: But *Gregory* extended Excommunication even to *Temporal Punishments*, and that in a more remarkable Manner than his Ancestors: For by the Frequency of his Excommunications it appears they were all Cholerique, and not at all agreeable to the *Evangelical* Spirit; and the Postscripts, saith *Dr Donne* ^(a) were worse than the Body of the Letter; being Confiscations, which his Predecessors, upon whose Actions, in this Case, he should have relied, never exercised, being of a more mild and Christian Disposition, knowing that otherwise they had but small Reason to affirme themselves Chief Heads of the Church.

His Actions are the best Proofs to shew the Absoluteness of the Authority to which he Pretended. *First* he shewed it to the *French-King*; and then to the Emperor.

To the Bishops of *France* he writes ^(b) that their King *Philip* is not to be called

(a) *Pseudomartyr*, pag. 66. (b) *L. 3. Ep. 5.*

King,

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King, but a Tyrant, which by Perswasion of the Devil is become the Cause and the Head of all Mischief: And that therefore they (the Bishops) must endeavour to make a Change in him, and to shewe him, That he cannot Escape the Sword of Apostolique Animadversion. And afterwards bids them Depart from Communion with, and pay no Obedience to, him: And moreover that they should forbid Divine Service throughout all France. And at length that if their Authority will not prevaile, he will interpose his owne, and endeavour to take his Kingdome from his Possession. And in the same Tenour He writes to the Earl of *Poietou* ^(b) That if the King persevere, both He and all which give Obedience to him, shall be sequestred from the Communion of the Church, by a Councell to be held at Rome. This was the Mildness shewed to such as had Established, as I have said, the Pope in his Temporalities; otherwise, perchance, he might have went a Begging, Yea worse been sent with Stones, by his Enemies, into the other World.

His Severity to the Emperor *Henry* appears best from the Forme of his Ex-

(b) L. 1. 2. Ep. 18.

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communication of him, *viz.* Contradico ei (•) I denie him the Government of all the Kingdome of Germany, and of Italy: and I absolve all Christians, from the Band of the Oath, which they have made to him, or shall make: And I forbid any Man to serve him as his King: for it is fit, That He which endeavours to Diminish the Honour of the Church should loose his owne Honour. And because he hath contemned to obey as a Christian, Participating with Excommunicated Persons, and Despising my Admonitions, and Separating himself from the Church, I tie him in Vinculo Anathematis.

In which Forme two Things are observable, besides *Excommunication* as taken in it's Proper sense, namely as it Extends to Spiritual Punishment onely, two Things; *first Confiscation*, in not suffering him to enjoy the Dominion of France, a Thing not heard of before: *Secondly*, his Absolution of the Subjects of all Oathes of Allegiance, which they have, or shall make to him.

This being done, he wrote an Epistle to a certaine Bishop, at his Request, to shewe that in this Action he had not

(c) *Binius. To. 3. fo. 1282. A.*

passed

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passed the Bounds of his Power and Authority, the Contents whereof are (d),

First, that there are manie and most certaine Documents in the Scriptures of this Kind of Excommunication, of which he cites those which are ordinarily offered, as *Tu es Petrus*, and *Tibi dabo Claves*, and *Quodcunque ligaveris*: and then asks whether Kings be excepted? True Kings are not excepted; but then, saith Dr Donne (e) *This Proceeding against Kings is Excepted: That is, it is not Included in that Commission, as hath been Enough and Enough proved by Many.*

Secondly, he urges the Testimony of Gelasius a Pope, *That Priesthood is above Principality, and that the Bishoppe of Rome is the Chief Priest.*

Thirdly, he brings in Pope Julius, who expounding the Words, *Tibi Dabo Claves*, to certaine Oriental Bishops, saith, *shall not he that opens Heaven, judge of the Earth?*

Fourthly, he cites (though not as Gregory's words are) a Privilege graunted

(d) Li. 8. Ep. 21. Episcopo Metenti.

(e) Ubi Supra, p. 71.

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by Gregory the First, to a Monasterie, and *Deprivation* from secular Dignity, and *Excommunication* to any that Infringe that Privilege. It is the Privilege of the Monasterie of St. Medard. In which *Deposition* is made to be the lesser Punishment, and to precede *Excommunication*. But Gregory is forced to make an Addition of the Word *Decrevit* in his Citation; a *Decree* presupposing *Infalibility*. But he that reads the Epistle itself will find that this *Deposition* and *Excommunication*, is only a *Comminatory Imprecation* to Deterre any from Infringing the said Privilege, and was commonly used in granting Privileges.

Fifthly, His next Reason why Princes may be Deposed by Priests, is taken from the Diversity of their *Beginning* and first *Institution*: For saith he, *Royal Dignity* was found out and invented by *Humane Pride*, but *Priests* were intituled by the *Divine Pietie*. And who knows not that *Kings* had their *Beginnings* from those Men, who being *Ignorant of God*, and provoked by the *Prince of the World*, the Devil, through *Pride*, *Rapine*, *Perfidiousnesse*, *Murder*, and all *Wickednesse*, affected a Government over their *Equalls*, by a blind *Ambition*, and *Intolerable Presumption*? *Sixthly*,

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Sixthly, He brings in the Examples of *Innocent* who Excommunicated *Arcadius*, and of *Zacharye* who Deposed *Childerique*.

These Things being said by him in Favour of his Authority, in the *Seventh* Place he Reproaches and Debases the *State* and *Order* of Kings in a most Insufferable and Dreadful Manner, saying *That even Exorcists* (which is no Sacred Order) are Superiour to *Princes*. And his Reason why *Exorcists* are Superiour to *Princes* is, *That since they are above the Divell himself, much more are they superiour to those which are Subjects to the Divell, and Members of the Divell*. And at length saies further, Discoveringe his Rancoure and Malice in the highest Degree, *In regal Dignity very fewe are saved, and from the Beginning of the World till now, we find not one King equall in Sanctitie to Innumerable Religious Men. What King hath done any Miracles? To what King have Churches or Altars beene Erected? How many Kings are Saints? Whereas, onely in our Sea there are almost a Hundred.*

The Popes therefore Pretending to such an Absolute Power and Authority, and their Inferiors easily submitting to them, well might the Nobles &c. submit themselves to King *Stephen*, being ab-
solved

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solved from the Oath he had taken to *Maud*, and they likewise assured by him, That they might do it very safely. For even the Pope then had as greate Power here as in other Parts. *Gregory* the VIIth of whome just now, shewing his Pride in a Remarkable Instance, by desiring King *William* the Conqueror to do Fealty for his Crowne, from whome nevertheless he received a Flat Denyal in these Words, in a Letter sent to him: (f)

Excellentissimo Sanctæ Ecclesiæ Pastori Gregorio, Gratia Dei Anglorum Rex & Dux Normannorum Willielmus Salutem cum Amicitia. Hubertus Legatus tuus Religiose Pater, ad me veniens ex tua parte me admonuit, quatenus tibi & Successoribus tuis Fidelitatem facerem, & de Pecunia quam Antecessores mei ad Romanam Ecclesiam mittere solebant, melius cogitarem. Unum admisi. Fidelitatem facere nolui, nec volo, quia nec Ego promisi, nec Antecessores meos Antecessoribus tuis id fecisse comperio. Pecunia tribus ferme Annis in Gallis me agente, negligenter collecta est. Nunc vero Divina Misericordia me in Regnum meum reverso, quod collectum per præfatum Lega-

(f) MS. Codex Epistolar. Lanfranci Cited by Sr. John Davys in his Irish Reports of *Premunire* fol. 89. Fullers Ch. Hist. Cent. XI. Book. 3, p. 3.

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*cum mittitur; & quod reliquum est per Legatos Lanfranci, Archiepiscopi fidelis Nostri, cum opportunum fuerit, transmittetur. O-
rate pro Nobis, & pro statu Regni Nostri,
quia Antecessores Vestros dileximus, & Vos
pro Omnibus sincere diligere & obedienter au-
dire desideramus.*

But the Kings after *William* gave him more Respect: And they never denyed him Power of Absolution in such Cases as this of *Stephen*, as had I Time, I could shew; For it is remark'd by our *Church Historians* that (g) The Papal Power in *England* went forward very much untill the Statute of *Mortmaine* was made in the Reigne of King *Edw. I.* That it went backward slowly when the Statute of *Provisions* was made *Anno Dom. 1340. Regni Edm. III. 12.* Swiftly when the Statute of *Pramunire* was made *Anno Dom. 1393. Regni 16 Rich. II.* And that it fell downe when the Papacy was Abolished in the Reign of K. *H. 8th.*

This Kind of Reasoning abundantly shewes how great Reason, according to the Principles of those Times, the *English* had to swear Allegiance to *Stephen*, their Antecedent Oaths to *Maud* notwithstanding.

(g) Fuller in his Church Hist. L. 3. Cent. XIII. p. 116.

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And now I hope I have with the greatest Clearness proved, I had almost said Demonstrated, That the Nobility and Communalty of England, Submitted to *Stephen* upon Principles of Reason and Justice, the *Common Good* of the Nation being the Chief Matter they depended upon.

The Result of all is this, That the *Common Good* of a Nation is *Principally* to be considered in an Oath, and that therefore it is not *Obligatory*, Provided it be inconsistent with it. For otherwise any one may take an Oath to another to stand by him in all Cases, even to the Ruine, and Destruction of any Kingdome, and if he refuses be stigmatized for a Perjured Person. But no one that pretends to any Thing of Skill in these matters will approve of such Oaths as Binding. Nor can therefore those Adversaries to the Succession of his present Majesty, blame such as have sworn Allegiance to him, with any Shewe of Reason. They know very well in what a Condition the Kingdom was in at the Time of the Abdication. And that if King *James* had been permitted to have continued in his Actions, by this Time nothing but Tyranny had Reigned, the Protestant Religion
utterly

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utterly Extirpated, and the Land flowed with Blood. Can any one therefore thinke that God had not an Eye over us, in Providing a Prince a Professed Enemie to Popery, to be our Deliverer from this Destruction hanging over our Heads? And what should we reject his Providence, and willingly involve ourselves in Ruine! Should we contrary to our Predecessors be such Pittiful Maintainers of our Lawes and Liberties? Certainly all Nations of any humanity, Yea the very *Romanists* themselves would have cryed out shame upon us.

Our Constitution is so Excellent that the Prince hath not such Absolute Authority as to impose what Lawes he pleases upon the People, nor on the other Hand is the Liberty of the People so unbounded as to command and force the King to what they please. No, there is a Due Power and Authority to both, every way becoming a strong Foundation. And therefore the King makes Lawes by the Consent of the People his Subjects. And this Kind of Dominion is called *Dominium Politicum & Regale*, in Contradistinction to the Dominion which a Tyraunt uses, called simply *Dominium Regale*. So that did our King Rule *Dominio Regali*, then
I 2 he

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he might command us to what he Pleas'd, without our Consent first of all had, but as he rules by the former, *viz. Dominio Politico & Regali*, our Consent is prerequired. I shall here beg leave to Transcribe faithfully what the most Judicious and Learned *John Fortescue* Knt. in K. *Edw. IVth*'s Time hath written concerning these two Dominions. He writes therefore in these Words (h).

Ther be ij kynds of Kyngdomys, of of the whiche that one ys a Lordschip, callid in Latyne *Dominium Regale*, and that other is callid, *Dominium Politicum & Regale*: And they Dyversen in that the first may Rule his People by such Lawys as he makyth hymself, and therefor he may set upon them Talys and other Impositions, such as he wyl hymself without their Assent. The Secund may not Rule hys People by other Lawys than such as thay assenten unto: And therefor he may set upon them non Impositions without their own Assent. This Dyversite is wele taught by Saynt *Thomas* in his Boke which he wrote *ad Regem*

(h) In Tractatu quodam MS. cui Tit. The Difference betweene *Dominium Regale* & *Dominium Politicum & Regale*, in Bibliotheca Bodl. inter MSS. *Ken. Digb. Num. 145. Script. propria Manu Adriani Fortescue Mil. Anno Dom. 1532. Regni H. 8^{vi}. 24^o.*

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Cypri De Regimine Principum. But yet it is more Opynly treatid in a Boke callid *Compendium Moralis Philosophia*, and sum-what by *Gyls* in hys Boke *De Regimine Principum*. The Children of *Ysrael*, as faith Saynt *Thomas*, after that God had Chosyn them in *Populum Pecaliarem & Regnum Sacerdotale* were Rulid by hym under Jugs *Regaliter & Politice*, unto the Tyme that they Desyryd to have a Kyng, as than had al the Gentyls, which we cal Panymys, that had a Kyng, a man that Reynyd on them *Regaliter tantum*. With which Desyer God was gretly offendyd, as wel for their folye, as for their Unkindness, that sithen they had a Kyng, which was God that Reynyd upon them Polytykly and Royally, and yet would Chaunge hym for a Kyng, a verey Man, that would Reyng upon them Royally. And therefore God manasyd them, and made them to be fearyd with Thonders and other ferefull thyngs from Heavyn. And whan they would not leve their foly the Desyer, he chargyd the Prophete *Samuell* to Declare unto them the Lawe of such a Kyng as thay askyd. Which amongs other thyngs said that he would take from them their Londs and Goods, and Gyfe them to hys Servaunts. And also

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also set their Childern in his Works and Labours, and do to them such other many harmefull thyngs as in the VIIIth Chaptyer of the first Boke of Kyngs it may appere, wheras before that tyme while thay were Rulyd onely by God Royally and Polytykly under Jugs hyt was not lesfull to any Man for to take from them any of theyr Goods, or to greve their Childern, that had not offendyd. Wherby it may Appere that in thoose Days *Regimen Politicum & Regale* was Dystryngwyd à *Regimine tantum Regale*. And that it was better to the People to be Rulyd Polytykly and Royally, than to be Rulyd onely Royally. Saynt Thomas also in his sayd Boke prayseth moche *Dominium Politicum & Regale*, bycause the Prynce that Reynith by such Lordschip may not frely fall into Tyranny, as may the Prince that Reynith *Regaliter tantum*. And yet thay both ar equal in Astate and Power, as it may lightly be schewyd and provyd by Infallible Reasons.

The

The Title of the Second §.

Wy one Kyng Reynith Regaliter tantum, and another Reynith Politice & Regaliter.

HYT may peradventure be Mervelid by some Men, why one Realme is a Lordschip onely Royal, and the Prince therof Rulyth yt by hys Lawe callid *Jus Regale*; And another Kyngdome is a Lordschippe Royal and Politike, and the Prince therof Rulyth by a Lawe callid *Jus Politicum & Regale*, Sythen thes 2 Princes both of Egal Astate. To this Dowte it may be answeyrd in this Manner. The first Institution of thes two Realmys upon the Incorporation of them is the Cause of thys Dyversite. Whan *Nembroth* by Might for hys owne Glorie made and incorporate the fyrst Realme and subduyd it to hymself by Tyrannye he would not have it governyd by any other Rule or Lawe, but by his own Will, by which and for thaccomplishment therof he made it. And therfor though he had thus made a Realme, Holy Scripture Deny'd to cal hym a Kyng, *Quia Rex dici-*

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dicitur à Regendo. Whych thyng he dyd not, but oppressyd the People by Might, and therfor he was a Tyrant, and callid *Primus Tyrannorum.* But Holy Writt callith hym *Robustus Venator coram Deo.* For as the Hunter takyth the Wyld Beste for to Sclee, and Eate hym; So *Nembroth* subduyd to hym the People with Might to have their Service and their Goods usyng upon them the Lordschip that is callid *Dominium Regale tantum.*

After hym *Belus* that was callid first a King, and after hym his Sone *Nynus*, and after hym other Panymys, thay by Example of *Nembroth* made them Realmys, would not have them Rulid by other Lawys than by their own Wills, which Lawys ben Right good under Good Princes. And their Kyngdom's are then most resemblyd to the Kingdom of God, whych Reynith upon Man Rulyng hym by his own Wyll. Wherfor many Christyn Princes usen the same Lawe. And therfor it is that the Lawys Sayen *Quod Principi placuit Legis habet vigorem.* And thus I suppose first beganne in Realmys *Dominium tantum Regale.* But afterward whan Mankynd was more Mansuete and better disposyd to Vertue, Grete Comunalties, as was the Felischip that came into

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into this Lond with *Brute*, wylling to be
unyed and made a Body Politike callid a
Realme havynge an Heede to Governe yt,
as after the saying of the Philosopher,
Every Communitie unyed of many parts
must needs have an Heede; than thay
Chose the same *Brute* to be their Heed
and Kyng. And thay and he upon this
Incorporation, Institution and Ownyng
of themself into a Realme, ordeyned the
same Realme so to be Rulyd and Justifyd
by such Lawys, as thay would assent
unto. Whiche Lawe therfor ys callid
Politicum. And by cause it is mynystrid
by a Kyng it is callid *Regale*, *Politica*
dicitur & Polos, quod est Plures, & Teos, sci-
entia, quo Regimen Politicum dicitur Regimen
plurium scientia sive consilio ministratum.
The Kyng of *Scotts* Reynith upon hys
People by this Lawe, videlicet *Regimine*
Politico & Regali: And, as *Diodorus Syculus*
saith in hys Boke *De Pristinis Historijs*,
The Realme of Egypt is Rulid by the
same Lawe and therfor the Kyng therof
Chaungith not hys Lawes without the
Assent of hys People. And in like fourme,
as he saith, is Rulyd the Kyngdom of
Saba in *Felici Arabia*. And the Lond of
Libie and also the more parte of all the
Realmys in *Affrike*. Whych maner of
Rule and Lordschip the said *Dyodorus* in
K that

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that Boke prayseth gretely; For yt ys not onely good for hys People that Receyve therby such Justice as they Desyer themselves. Now, as mefemyth, it ys schewyd opynly ynowgh, why one Kyng Rulith and Reynith on hys People *Dominio tantum Regali*, and that another Reynith *Dominio Politico & Regali*. For that one Kyngdome beganne of and by the Might of the Prince, and that other beganne by the Desyer and Institution of the People of the same Prince.

The Title of the Third §.
Hereafter be Schewyd the Frutes of *Jus Regale*, and the Frutes of *Jus Politicum & Regale*.

AND how so be it, that the *French* Kyng Reynith upon his People *Dominio Regali*, yet Sainct Lewis Sumtime Kyng ther, ne any of his Progenytors sett never Tayls or other Impositions upon the People of that Lond, without the Assent of the 3 Aftatts, which whan thay be assemblid are like to the Courte of Parlement in Englund. And this Order kepte many of hys Successors untill late Days that the 3 Aftatts durst not come togeders. And than for that Cause and for grete Necessite which the *French* Kyng had of Goods for the
De-

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Defence of the Lond, he toke upon hym to set Tayls, and other Impositions upon the Comons without the Assent of the 3 Astatys, but yet he would nott sett any such Chargs, nor hath sett upon the Nobles for feare of Rebellioun. And by cause the Comons though thay have grutchid, have not Rebellid, or be hardy to Rebell, the French King's Have Yerly sythen sett such Chargs upon them, and so Augmentid the same Chargis, as the Commons be so Impoverischid and Destroyyd that they may unneth Lyre. Thay Drynke Water, thay Eate Apples with Bread ryght Browne made of Rye. Thay Eate no Flesche but if it be selden, a littil Larde of the Entrayls or Heeds of Bests, sclayne for the Nobles and Merchants of the Lond. Thay weryn no Wollyn, but if it be a Pore Cote under their uttermost Garment made of Grete Canvas, and cal it a Frok. Their Hosyn be of like Canvas, and passen not their Knee. Wherfor thay be gartrid, and their Thyes bare. Their Wyfs and Childern gone barefoot, thay may in non otherwyse lyve. For sum of them that was wont to pay to his Lord for his Tene-ment, which he hyrith by the Yere a Scute, payyth now to the Kyng over that Scute, fyve Skuts. Wherthruogh thay be

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artyd by necessity so to Watche, Labour and Grubbe in the Ground for their Sustenance, that their Nature is much Wastid and the Kynd of them brought to nowght. Thay gone Crokyd, and are feble, not able to fyght nor to Defend the Realme, nor thay have Wepon nor Monye to bye them Wepon withal but verely thay lyvin in the most Extreme Povertie and Myserye, and yet thay Dwellyn in one the most Fertile Realme of the World. Wherthrough the *French* Kyng hath not Men of his owne Realme able to Defend it, except his Nobles, which beryn no such Impositions. And therefore thay are Ryght likely of their bods, by such Cause the said Kyng is Compellid to make hys Armys, and Retennys for the Defence of his Land of Straungers, as *Scotts, Spaniards, Arragonars*, Men of *Almayn*, and of other Nations, els al his Ennymyes might Overrenne hym. For he hath no Defence of his owne, Excepte his Castells and Fortassis. Loo this the Frute of hys *Jus Regale*. Yff the Realme of Englonde which ys an Yle, and therfor may not lightly gett socours of other Londs, wer Rulid under such a Lawe and under such a Prince, it would be than a Pray to al other Nations that would Conquere, Robbe and Devoure yt, which was wel provyd

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provyd in the Tyme of the *Brytons*, whan the *Scotts* and the *Pycetes* so bette and Oppressyd this Lond, that the People therof sought helpe of the *Romaynes*, to whome thay had byn Tributorye. And whan thay would not be Defendyd by them, the sought helpe of the Duke of Britaine, then callid *Little Britayne*, and grauntyd therfor to make hys Brother *Constantine* their Kyng. And so he was made Kyng here and Rayned many Yers, and his Childerne after hym off wych Grete *Arthure* was one of their Issue. But, blessid be God this Lond ys Rulid under better Lawe, and therfor the People therof be not in such Penurye, nor therby hurt in their Persons, but they be Welthy and have al thyngs necessarye to the Sustenaunce of Nature. Wherefore thay be Myghty and able to refyste the Adversarijs of the Realme, and to bett other Realmes that do or will do them wrong. Loo this is the Frute of *Jus Politicum & Regale*, under which we lyve.

This Greate Man hath handled, You see, this Matter so Judiciously, that it were vaine for me to say any thing more of *Dominium Regale & Politicum* under which we live. For, You see, he hath Demonstrably proved how the King cannot give Lawes without the Consent of
his

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his People, and that if he could it were to the Ruine of our Nation.

Now since King *James* broke his Oath, by which he was Obliged to Protect and Defend his Subjects, can any one of reason thinke his Subjects Obliged by their Oath to Maintaine him on his Throne, which would be their certaine Destruction?

A good Sentence meet wee in *Caxton's* Booke of Armes, in these Words (i), if rightly weighed, not aliene to our purpose:

Prynces Soverayne for none other thyng were establyshed but for to doo Ryght to every of their Subgettis that shold be oppressid for ony Extorsion, and for to defende and kepe them lyke as the Good Sheppard Exposeth his Lyf for hys Sheep, and therefore oweth the Subgette to Resorte to the Lorde as to hys Refuge whan ony Grief is doone to hym, and the Good Lorde schal take his Armes for hym yf it be nede, that ys to saye schal helpe with his Power to kepe hys Good Right be it by waye of Justyce or by Execution of Armes.

And indeed, if the King be intrusted with the Defence of the Realme, as indeed he is, then it is said That (k) *In-*

(i) Ch. 3. (k) *Hill. 26. E. 1. B. R. Ro. 14. Rushworth's Collections Part. 2. p. 501.*

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combit Domino Regi Salvato sibi Commiss.
And That *per Juramentum est astrictus ad*
providendum Salvationem Regni circum-
quaque.

Allegiance is an Act of Reciprocation:
For as it binds the Subjects to Tribute
and Subjection, So therefore must it be
the King to the Charge of Protection, by
the Expence of those; *Rex ad Tutelam*
Legis, Corporum & Bonorum erectus, saith
Fortescue. And in the Great Case be-
tween the Earles of Hereford and Glo-
cester (^m), it is said, That *Dominus Rex*
est omnibus & singulis de Regno suo Justitie
Debitor.

I suppose therefore that by what I have
said, Sir, You are satisfied, at least ought
to be, That the Jurors to His Majesty
that now is are farre from Entertaining
Disloyal Principles.

You may, perhaps, think me an *Anti-*
monarchist, And that I have been Guided
very much by Mr. *Tyrrel's* History. But
I declare unto You that I am the quite
contrary, and am a Professed Enemy to
all such as Indulge *Antimonarchical* Princi-
ples: And that I am so farre from ap-
proveing Mr *Tyrrel's* Booke, that I really
believe all he hath said about Election hath
but a weake Foundation; the strongest his

(m) *Hil* ubi *Supra*.

owne

My Opinion. Sure I am, That he
would have Quoted himself more to his
Credit, had he not receded from the
Sentiments of such as wrote before him,
I mean the Chiefest who held that our
Monarchie is much Ancienter than Mr.
Tyrrel makes it. But here's the Case:
Mr. *Tyrrel* is Resolved to be Partial, and
to Demonstrate to the World what Great
Errors he hath Rectified. But so it is,
That he is in this whole Worke so Erroneous
himself, that he wants a Weeder to
come after him. And indeed he that shall
undertake to Weed or Purge the Faults
from it, will have a very Tiresome Piece
of Worke: because for the most parte he
drawes Authors to be of His Opinion,
notwithstanding he knowes they are of
the Contrary. But I shall put a Stop
here, (having been more Tedious than
at first I intended) and assure You that
I am,

SIR,
I declare unto You that I am the pure
and Protested Enemy to
all such as Indulge Arbitrary Prin-
ciples. I am to late from ad-
dressing you.

Scripti Aulae
Sti Edm. Oxon.
Jan. 11^o 1700.
proving Mr. Tyrrel's Booke, I believe all his hard words about El
in the Nation; the strongest
THO. HEARNE.

